

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BRAUN GmbH,

Plaintiff,

-VS-

No. 03-CV-12428 (WGY)

RAYOVAC CORPORATION;

Defendant.

Videotaped deposition through interpreter of GEBHARD BRAUN taken before CAROL CONNOLLY, CSR, CRR, and Notary Public, pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, at Braun GmbH, Frankfurter Strasse 145, D-61476 Kronberg im Taunus, Germany, at 10:19 a.m. on the 26th day of April, A.D., 2005.

EXHIBIT I

Page 2

1 There were present at the taking of this
2 deposition the following counsel:

3 ROPES & GRAY, LLP by
4 MR. WILLIAM L. PATTON
5 MS. LESLEY F. WOLF
6 One International Place
7 Boston, Massachusetts 02110-2624
8 (617) 951-7000

9 on behalf of the Plaintiff;

10 KIRKLAND & ELLIS, LLP
11 MR. JAMES SHIMOTA
12 200 East Randolph Drive
13 Chicago, Illinois 60601.
14 (312) 861-2000
15 on behalf of the Defendant;

16 ALSO PRESENT: Mr. Uwe Sievers
17 Braun GmbH;
18 Dr. Wolfgang Stutius
19 Ropes & Gray;
20
21 Ms. Jeanette Fröhlich
22 Interpreter;
23 Mr. Kevin Duncan
24 Legal Videographer.

Page 3

1 VIDEOTAPED DEPOSITION OF
2 GEBHARD BRAUN

3 April 26, 2005

4 EXAMINATION BY: PAGE
5 Mr. James Shimota 5

6 * * * * *

7 EXHIBITS

8 PAGE

9 Deposition Exhibit No. 1 50
10 Deposition Exhibit No. 2 58
11 Deposition Exhibit No. 3 65
12 Deposition Exhibit No. 4 70
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Page 4

1 THE VIDEOGRAPHER: Good morning. We are going on
2 the video record at 10:19 a.m. Today's date is
3 April 26th, 2005. My name is Kevin Duncan. I am a
4 certified legal video specialist in association with
5 LegalLink-Chicago. The court reporter today is Ms. Carol
6 Connolly.

7 Here begins the videotaped deposition of
8 Mr. Gebhard Braun taken in the matter of the Gillette
9 Company, et al. versus Remington Products Company, LLC
10 in the United States District Court for the District of
11 Massachusetts. This deposition is being held at the
12 Gillette and Braun Company in Kronberg, Germany.

13 Would counsel, please, identify themselves for
14 the record state whom you represent starting with the
15 noticing party.

16 MR. SHIMOTA: Jim Shimota from Kirkland & Ellis here
17 on behalf of defendant Rayovac Corporation.

18 MR. PATTON: Bill Patton from Ropes and Gray in
19 Boston on behalf of Braun.

20 THE VIDEOGRAPHER: Will the court reporter now swear
21 in the witness and the interpreter.
22
23
24

Page 5

1 JEANETTE FRÖLICH,

2 called as an Interpreter herein, was sworn to interpret
3 all of the questions from English to German and all of
4 the answers from German to English:

5 GEBHARD BRAUN,

6 called as a witness herein, having been first duly
7 sworn, was examined upon oral interrogatories and
8 testified as follows:

9 EXAMINATION

10 By Mr. Shimota:

11 THE VIDEOGRAPHER: Thank you. You may begin,
12 please.

13 MR. SHIMOTA: Q Good morning, Mr. Braun.

14 A (Through Interpreter) Good morning.

15 Q Before we begin, I would like to go through a
16 little bit of deposition background if that is okay.
17 During the course of the day just to start, when I ask
18 you questions I would appreciate if you would answer
19 with a verbal response. Would you please do that?

20 MR. PATTON: He says to speak.

21 MR. SHIMOTA: Q You understand that today I will be
22 asking you a series of questions today and you will
23 provide me with answers to those questions, is that
24 correct?

2 (Pages 2 to 5)

Page 6

1 A I understood that, right.
 2 Q And if during the course of the day I ask you a
 3 question which you do not understand, will you please
 4 tell me?
 5 A Of course.
 6 Q And also if after answering one of my questions
 7 you later determine that your answer may have been
 8 incomplete or incorrect, would you also tell me that?
 9 A Yes.
 10 Q And as counsel indicated if you ever believe
 11 that you need to take a break during the course of the
 12 deposition, would you also tell me that too, please?
 13 A Yes.
 14 Q And, finally, is there any reason that you can
 15 think of that you are unable to truthfully and
 16 accurately answer my questions today?
 17 A The only thing would be that I can't remember
 18 well or I do not have the knowledge anymore so well.
 19 Q I understand that.
 20 Mr. Braun, are you represented by counsel
 21 today?
 22 A I just have the lawyers of the company, Braun,
 23 who are present here.
 24 Q And when did you retain the firm of Ropes and

Page 7

1 Gray to represent you?
 2 THE INTERPRETER: Can you repeat this please?
 3 MR. SHIMOTA: Q Certainly. When did you retain the
 4 firm of Ropes & Gray to represent you?
 5 A I do not know. I do not know that company.
 6 MR. PATTON: We -- are you asking -- we are
 7 representing Mr. Braun in the deposition. So when his
 8 deposition was noticed we undertook to represent him in
 9 the deposition. Before that, of course, we requested
 10 any documents that he had.
 11 MR. SHIMOTA: Okay. Let me try and ask this
 12 question then.
 13 Q Mr. Braun, you submitted a declaration in this
 14 -- reask that.
 15 Mr. Braun, you submitted a declaration in
 16 connection with the patent litigation brought by Braun
 17 against Rayovac, is that correct?
 18 A I do not know which declaration is meant here
 19 with --
 20 Q Certainly. You submitted a declaration in
 21 connection with Braun's request to correct the
 22 inventorship on the patents which are being asserted
 23 against Rayovac Corporation, is that correct?
 24 A If it refers to the co-inventorship with

Page 8

1 Dr. Pahl I submitted this later on, that is correct. If
 2 that's what you mean.
 3 Q Yes, that is what I mean. When you submitted
 4 that declaration were you represented by counsel at that
 5 time?
 6 A We had a conversation here in the company with
 7 the patent unit, with the patent department.
 8 Mr. Sievers, were you present?
 9 MR. PATTON: No, but -- I think Mr. Sievers should
 10 know. I do not know his name or was it -- I just came
 11 to know the name when we greeted each other, but I don't
 12 have any other relation to that.
 13 Were you present back then? This was summer
 14 last year I think.
 15 MR. PATTON: Jim, are you asking who at Ropes and
 16 Gray --
 17 MR. SHIMOTA: I guess the question I want to ask
 18 when did he first retain Ropes and Gray.
 19 THE INTERPRETER: Retain is ask for help.
 20 MR. SHIMOTA: Q Or maybe the word hire.
 21 A I have not hired them. I do not even know the
 22 names. I wasn't in the patent department at that time.
 23 There were one or two gentlemen who spoke English, but I
 24 have not had to do with them beside.

Page 9

1 MR. SHIMOTA: Q When did you first learn of the
 2 litigation between Braun and Rayovac?
 3 A I'm not really sure, but it could have been
 4 November of 2003.
 5 Q Why do you think it may have been November of
 6 2003?
 7 A Because yesterday or the -- the day before
 8 yesterday I looked again into my papers and my documents
 9 and that was the date -- the earliest date I saw and
 10 when I think that Braun contacted me and wanted to have
 11 a phone conference with me.
 12 Q You mentioned looking back into your papers and
 13 documents. What papers and documents are you thinking
 14 of?
 15 A These are handwritten notes to support me in
 16 remembering things.
 17 MR. PATTON: Before you go on I think we should just
 18 put on the record our agreement that all objections
 19 except as to form are reserved until the time of trial.
 20 We spoke about it and didn't say it.
 21 MR. SHIMOTA: That's fine.
 22 Q Have you -- the notes that you just spoke of,
 23 have you provided those to Braun's legal department or
 24 your counsel?

3 (Pages 6 to 9)

Page 10

1 A No.
 2 Q Have you provided any documents to Braun's
 3 legal department or your counsel in connection with this
 4 litigation?
 5 A I cannot imagine. I really cannot remember
 6 having done so because it was not required.
 7 Q Do you have -- let me get to that later.
 8 With respect to the notes that you just
 9 mentioned, would you be willing to provide those to
 10 Rayovac corporation?
 11 MR. PATTON: Just interpose this objection. I will
 12 ask Mr. Braun to provide the notes to us, and if they
 13 are not privileged, then, of course, we would consider
 14 producing them if they were called for by request.
 15 MR. SHIMOTA: I guess I'll formally request them and
 16 we can follow-up with that later.
 17 You don't need to do that.
 18 THE INTERPRETER: You say Remington Corporation?
 19 MR. SHIMOTA: No. For the record it's Rayovac
 20 Corporation.
 21 THE INTERPRETER: Rayovac Corporation. Thank you.
 22 MR. SHIMOTA: Q Could you describe for me your
 23 educational background?
 24 A I attended what they called an engineering

Page 11

1 school back then. Today it would be called university
 2 of applied sciences. It was like back then the system
 3 was different and many people just went to -- to school
 4 -- to not great school like that and it was -- I did not
 5 go to high school. But still I had the possibility to
 6 attend this engineering school, but this required that I
 7 made few semesters before starting extra semesters.
 8 Q Well, the few semesters that you had to take
 9 prior to starting the engineering school, what was the
 10 course work during those semesters?
 11 THE INTERPRETER: You speak about the semesters
 12 before he went to engineering school?
 13 MR. SHIMOTA: That's correct.
 14 A It was not English for sure. In the meantime
 15 it's obligatory, but then it was not. It was technical
 16 basic subjects. It was altogether four subjects. These
 17 were subjects that were not covered extensively during
 18 my normal school so it was algebra, mathematics, German
 19 and I think physics. German physics, geometry and
 20 mathematics.
 21 Q Did you take any course work in chemistry?
 22 A This was only one semester, but later on, yes.
 23 Then I had six semesters at this engineering school,
 24 college, whatever, and this included chemistry.

Page 12

1 Q So at the -- beyond chemistry at the
 2 engineering college, which courses did you take?
 3 A What I did was like machine technique and one
 4 of the parts was, like, technique, and that's what I
 5 call it. That's what I had in mind. It was about
 6 manufacturing small mass parts.
 7 DR. STUTIUS: Production engineering, product
 8 engineering, not for large machine, by for small
 9 machinery, precision machining, something like that.
 10 MR. SHIMOTA: Q Did you take any courses in the
 11 field of mechanical engineering at the engineering
 12 school?
 13 DR. STUTIUS: Mechanical engineering.
 14 A Yes. Mechanic was most important -- was one of
 15 the most important parts of this engineering courses.
 16 MR. SHIMOTA: Q Did you also take any course work
 17 in chemical engineering?
 18 THE INTERPRETER: Excuse me?
 19 MR. SHIMOTA: Chemical engineering.
 20 A So I just had the basic knowledge to understand
 21 chemical processes.
 22 Q Did you have the basic knowledge to understand
 23 fluid mechanics?
 24 A It was, of course, surely also a part of it.

Page 13

1 Q And what other basic knowledge of chemistry did
 2 you gain at the engineering school?
 3 A Special chemical knowledge?
 4 Q Yes. I mean did you learn the -- did you learn
 5 which chemicals would be used in solvents?
 6 A No, not from school I have not gained this
 7 knowledge there. It was not chemistry studies course.
 8 Q And during your time at the engineering school,
 9 did you focus on any particular types of products?
 10 A My idea was to concentrate on small items like
 11 razors or shavers, like small electrical devices.
 12 DR. STUTIUS: Electromechanical devices.
 13 A Electromechanical devices.
 14 MR. SHIMOTA: Q Aside from shavers, did you focus
 15 on any other devices in your course work?
 16 DR. STUTIUS: Just for the record the shavers was
 17 not in the original -- what he said was something like
 18 this here. I didn't hear the word shavers is all.
 19 MR. SHIMOTA: Q Let me ask this question then.
 20 Were there any particular small electric
 21 devices which you focused on at the engineering school?
 22 A No.
 23 Q Did you perform any particular -- let me strike
 24 that.

4 (Pages 10 to 13)

Page 14

1 As a student did you perform any particular
2 projects on any particular device?
3 A No.
4 Q So is it correct that at the engineering
5 college you focused more on small electrical devices
6 generally?
7 A The education itself was not oriented specially
8 for small items, small products. It was more like for
9 the production side that was important.
10 Q Okay. And so is it fair to say then you were
11 just focusing on the production side of a large number
12 of different devices?
13 A The thing is I was focused on these things
14 because I have to tell you as well that before going to
15 engineering school I had three-and-a-half years of
16 education, of practical mechanical education, and I
17 worked at a company that produced needles and that's
18 where I -- was in contact with small devices.
19 Q Okay. And what was the name of the company
20 that produced needles?
21 A Groz Beckert.
22 Q When did you work at the company that you
23 mentioned?
24 A This was from 1954 to '58.

Page 15

1 Q And what were your responsibilities?
2 A Just -- this was -- this was an apprenticeship
3 and there was a large department only for this
4 apprentices and they got the education in order to
5 maintain the devices.
6 Q Which devices did you work to maintain during
7 your apprenticeship?
8 A During my apprenticeship I did predominantly
9 make small parts for the machines that produced the
10 needles.
11 Q In the facility for producing the needles, were
12 there any cleaning processes?
13 A That's interesting. That's interesting now
14 that you say that. Indeed they had -- the solvents
15 smelled very strongly and that was where we had to wash
16 the machine parts in.
17 Q And do you recall the devices that were used to
18 wash the machine parts?
19 A We had to -- these were many components. These
20 were tools that were dismantled --
21 DR. STUTIUS: Disassembled.
22 A Disassembled and washed and then they
23 afterwards they could fully function again.
24 MR. SHIMOTA: Q How were the tools washed?

Page 16

1 A I do not know exactly. This was quite
2 primitive way that it was done. This was like with
3 cloth or with brushes. I remember, however, I myself
4 was not involved in this, but the needles were also
5 washed in a different way. It was an automated
6 cleansing.
7 Q And how were -- let me -- Strike that.
8 You mentioned solvents which were used for
9 cleaning the tools, is that correct?
10 A I can very well remember the name Tri.
11 DR. STUTIUS: Trichloroethylene.
12 MR. SHIMOTA: Q When the tools were washed, how was
13 the trichloroethylene delivered to the tools?
14 A I was still an apprentice and it was like we
15 had a big container there, the tools, that they put in
16 the tools and we just washed it like with water.
17 Q Was the solvent pumped into the device for
18 washing the tools?
19 A From the -- no, the solvent was not pumped for
20 sure. But I remember with the needles, it was
21 different. They were put into like basin.
22 DR. STUTIUS: Crates or whole containers. They were
23 just lowered into a bath and cleaned.
24 MR. SHIMOTA: Q For the needles -- the needles were

Page 17

1 first placed into a holder, is that correct?
2 A Yes, they were -- one -- I remember these
3 needles were very close to each other and they were put
4 together in one holder and then they were put down into
5 the water.
6 DR. STUTIUS: It's actually a receiving device where
7 they were put in if you want to know the name. The
8 holder -- just something where they fit in.
9 A It's possible that the -- the solution was even
10 warmed, and I remember that there was a device to take
11 up the smell so the smell was not so strong.
12 DR. STUTIUS: They had duct work above it so that it
13 would -- so it would diminish the odor.
14 MR. SHIMOTA: Q So after the needles were -- well,
15 after the receiving part with the needles in it was
16 lowered into the bath, what happened next?
17 A This Tri it's also -- it's dried by itself,
18 this was one of its characteristic.
19 And now that you ask me I do not really
20 remember, but I suppose I can imagine that the fluid was
21 like pumped around and it felt like it was cooking.
22 DR. STUTIUS: Boiling.
23 A Maybe not cooking, but like boiling and I
24 remember now to have seen such devices in washing rooms.

5 (Pages 14 to 17)

Page 18

1 DR. STUTIUS: He said basically they had big rooms
2 where -- rooms where that process took place.

3 MR. SHIMOTA: Q I can understand. So once the
4 washing process was completed, how were the needles
5 dried?

6 A Now I think I remember that they were drained
7 and then it was a very volatile medium and it just dried
8 by itself this Tri and there was this duct again what I
9 remember.

10 Q So it's correct this process used air drying?

11 A Yes, I think so, yes. That's what I think.

12 Q Do you recall who manufactured the needle
13 washing device?

14 A I was 16, 17, 18 years old, young man, and I
15 was very impressed by this, but I do not know.

16 Q Why were you impressed?

17 A This huge machinery that was working,
18 operating, this was a huge room of device and machines
19 and all operating. This was impressive. This is like a
20 steam engine was impressive.

21 Q Maybe we can go do this off the record. The
22 name of the -- of your employer when you were an
23 apprentice?

24 A Groz Beckert. Company's name is Groz Beckert.

Page 19

1 They produced for half the world the needles to be used
2 for machines to produce other products.

3 Q That shows my ignorance.

4 Once you left your apprenticeship, did you use
5 the skills that you learned there throughout the rest of
6 your working career?

7 A At the end of my apprenticeship as a mechanic I
8 was considering to go to an engineering school. That's
9 why I made an internship for half a year at the same
10 company to become a technical drawer.

11 DR. STUTIUS: Draftsman.

12 A Usually it was required to have a higher -- a
13 little bit higher education to attend this engineering
14 school, but in order to have the possibility to attend
15 it, it was required to do something else like this
16 draftsman.

17 DR. STUTIUS: What he refers to is tenth grade
18 finishing -- finishing tenth grade instead of ninth
19 grade, which he didn't have.

20 A Because I did not go until the tenth grade it
21 was required that I make -- that I pass the exam for
22 apprentice, and besides that I make an internship as a
23 draftsman and besides I also made another education as a
24 giesser.

Page 20

1 DR. STUTIUS: Casting. It's die casting
2 specialization.

3 MR. SHIMOTA: Q So you had background in both
4 technical drafting and die casting?

5 A In addition to learning draftsman at the
6 company I was, I made another actually internship of
7 four months as a draftsman with a different company and
8 I was involved --

9 DR. STUTIUS: With electrical -- cabinets for
10 housing switching gear.

11 A As you see them all around the streets.

12 DR. STUTIUS: The little housings for the switching
13 gear.

14 MR. SHIMOTA: Q What was the name of the company
15 that manufactured the switching cabinets?

16 A The name was Electra. It was the City of
17 Telfingen. This was only 5 kilometers from where I
18 lived then.

19 Q While working at that company did you gain any
20 background in circuit design? Background in circuit
21 design.

22 A Only the mechanical parts I came to know.

23 Q Did you ever have occasion to gain any
24 background in circuit design or electrical engineering?

Page 21

1 THE INTERPRETER: Would you repeat the question, the
2 first part?

3 MR. SHIMOTA: Q Did you ever have occasion to gain
4 background in circuit design or electrical engineering?

5 DR. STUTIUS: What was the other thing, electrical
6 design.

7 MR. SHIMOTA: Electrical engineering.

8 A Electrical engineering was one of the most
9 important parts of my engineering education in
10 engineering school.

11 Q Why was it one of the most important parts?

12 DR. STUTIUS: It wasn't most important. It was like
13 essential. It was essential.

14 MR. SHIMOTA: Q Why was it one of the most
15 essential part --

16 DR. STUTIUS: Not most essential.

17 MR. SHIMOTA: Q Why was electrical engineering one
18 of the most essential parts of your education at the
19 engineering school?

20 DR. STUTIUS: What he said actually was it was an
21 important part. It's not the most or the most
22 essential. He said an important part.

23 MR. SHIMOTA: Q I'll withdraw it.

24 A What I remember is that electrical engineering

Page 22

1 was a subject throughout the whole semesters. It was
2 continually taught -- taught. And other subjects time
3 and again they were taught one or two semesters and
4 there was a break and then again so that's why it was --
5 that's the part it played in my studies.

6 Q So let me ask this question. Would you take me
7 chronologically through your employment history?

8 A After my studies, after like universities,
9 after engineering school?

10 Q We've already discussed your apprenticeship,
11 correct? So putting aside the apprenticeship, can you
12 tell me your employment history after that?

13 A After apprenticeship I had to pass an exam at
14 this engineering school I made the prior semester.
15 After this prior semester I had to wait one semester --

16 DR. STUTIUS: One year, not one semester. One
17 semester.

18 A And I used this semester to improve my
19 qualification by going -- by making die casting and then
20 the internship of four months at Electra. This was how
21 I filled this half year before I could really enter --
22 to start the studies. Main studies was 2 years which
23 was six semesters. My first application was with
24 Olympia America in Wilhelmhaven Strauss. I think this

Page 23

1 was back then the largest typewriting and accounting
2 machine plant in Germany -- company in Germany. I
3 applied there with the intention to go into
4 construction.

5 DR. STUTIUS: Is it production engineering?

6 A Production engineering.

7 MR. SIEVERS: Production or manufacturing.

8 DR. STUTIUS: Production or manufacturing.

9 A But then Olympia in Wilhelmhaven told me that
10 before I could start in production and manufacturing I
11 had to qualify beforehand in construction, in the
12 construction department.

13 DR. STUTIUS: It was design department.

14 A Design department.

15 MR. SHIMOTA: Q Do you recall what year you spent
16 the four months working at Electra?

17 A I can try to reconstruct when that was.

18 Apprenticeship was from '54 to '58. Was it in '59? It
19 -- I suppose it was '59. In '59 I started my main
20 studies of engineering and one year before this was this
21 prior semester.

22 Q Let me ask this. When you finished at the
23 engineering school, what degree did you receive?

24 A It was called just engineer. Later on this was

Page 24

1 changed and those were called -- they could call
2 themselves in. grad. like graduated engineer because up
3 to then anyone who had certain education within a
4 company was an engineer, and then I made them
5 acknowledge my in. grad. and I received a certificate
6 that I can bear this title in. grad.

7 Q Are you familiar with the term Bachelor's
8 Degree in the United States?

9 A I know it very well, but I do not know what it
10 means.

11 Q Then I won't ask the next question.

12 The degree that you achieved in Germany, is
13 that still referred to as a graduated engineer today?

14 A Today it's different. There's a technical
15 university of applied sciences, that's what we call high
16 school era, and high school is gymnasium.

17 Nowadays these people who make now the same
18 education I made back then in this engineering schools
19 they are -- they call themselves diploma engineer.

20 Q I understand.

21 DR. STUTIUS: Can I say just for the record
22 something -- the educational system also is different in
23 the countries -- there are almost no parallel. You
24 cannot even horizontally transition from one to the

Page 25

1 other, and that makes it difficult sometimes to get the
2 equivalent, but that's just -- I have the same problem.
3 when I have to explain my education.

4 MR. SHIMOTA: Q When you worked for the four months
5 at Electra, were any cleaning processes involved at that
6 facility?

7 A I understood already. The only thing I know
8 when we had our noon break we went to -- to swim in a
9 swimming pool to clean ourselves. What I saw is that
10 they put in soap powder into the swimming pool.

11 Q What years did you work at Olympia?

12 A Autumn '62 until --

13 DR. STUTIUS: Spring of '65.

14 A '65, beginning --

15 DR. STUTIUS: Spring, '65.

16 A Spring, '65.

17 MR. SHIMOTA: Q And you said you first worked in
18 the design department, correct?

19 A We call it construction in German.

20 Q During what period approximately did you work
21 in the design department?

22 A The whole time, all of these two and
23 three-quarters of years, two years and three-quarters.

24 Q And so -- is it correct that you worked for a

7 (Pages 22 to 25)

Page 26

1 quarter of a year in the production engineering?

2 A No, not at all. I did not work there. It was
3 only that I applied with the intention to work there.

4 Q In the -- at Olympia were there any cleaning
5 processes involved with their design of typewriters and
6 other products?

7 A Not that I worked with it. I myself worked
8 especially at Olympia with mechanical accounting --

9 DR. STUTIUS: Calculating machines.

10 A Calculating machines.

11 MR. SHIMOTA: Q After Olympia, where did you come
12 to work next?

13 A After Olympia I applied with VDO in Frankfurt,
14 VDO.

15 Q What products -- what was the business of
16 Valdi?

17 A Instruments for automobiles like tachometers --
18 DR. STUTIUS: Odometers. Odometers and clocks and
19 instrumentation, RPM indicators and so on.

20 MR. SHIMOTA: Q What position did you hold with
21 Valdi?

22 A I was in construction or design.

23 DR. STUTIUS: He was a designer.

24 A It was design. It was more or less the same

Page 27

1 position, yes, indeed like with Olympia.

2 MR. SHIMOTA: Q What products did you design for
3 Valdi?

4 A Essentially in the beginning I was employed to
5 be -- to do new products. We try to do -- develop new
6 products. It was a newly designed department, newly set
7 up department. My boss was also new. He was not with
8 VDO before.

9 Q Do you recall any specific products -- any of
10 the new products you worked on?

11 A What I can recall is that we made experiments,
12 we experimented, but that at the end there was not a new
13 product developed.

14 Q And how many years did you work -- excuse me.
15 Withdraw.

16 During what years did you work at VDO?

17 A I started in '65 and left in '68 or ended this
18 work in '68.

19 Q Were there any cleaning processes at VDO during
20 your employment?

21 A I myself at least did not, like, develop any of
22 them, did not have to do with them, but I saw them in
23 manufacturing.

24 Q And what cleaning processes did you see in

Page 28

1 production?

2 A It's difficult to name them. It's just like I
3 went through this department, but I cannot really
4 remember.

5 DR. STUTIUS: He said he doesn't have anything to do
6 with the actual processes.

7 A It's nothing special that I could remember in
8 this respect.

9 MR. SHIMOTA: Q Were there any devices used to
10 clean automobile parts?

11 A I remember -- that's the only thing I remember.
12 I had to do, like, the glass paints would not be --

13 DR. STUTIUS: Like fogging.

14 MR. SIEVERS: Antifogger.

15 DR. STUTIUS: Prevent fogging of glass covers.

16 MR. SHIMOTA: Q And how -- how was fogging
17 presented -- excuse me.

18 How was fogging prevented on the glass?

19 A I cannot exactly remember what I did, but I
20 remember that I was the first time confronted with the
21 fact that there was a way to prevent fogging or to
22 influence the fogging process. I think it was done by a
23 kind of sealing to prevent humidity.

24 Q Is it correct that the glass would be sealed

Page 29

1 when it was installed in an automobile to prevent
2 fogging?

3 THE INTERPRETER: Excuse me?

4 MR. SHIMOTA: Q Am I understanding correctly that
5 the glass was sealed when it was installed in the
6 automobile to prevent fogging?

7 A It is like -- we did not have to do with the
8 automobiles themselves. We had to do with the
9 instruments so just like with the body or with --

10 DR. STUTIUS: Housing.

11 A -- with the housing and we had to -- as
12 important that the glass pane and like in a clock --
13 what is inside the clock is separated by sealing.

14 MR. SHIMOTA: Q Okay. Where did you come to be
15 employed after VDO?

16 A While I was at VDO I applied with the company
17 Braun.

18 Q Is it correct you started working at Braun in
19 1968?

20 A Yes.

21 Q And for how many years did you work at Braun?

22 A Spring '65 -- I think I'm away from Braun for
23 10 years now. So it was '86 -- '68 -- I think it was
24 '68 to '95. 27 years, right?

Page 30

1 Q When you first came to be employed by Braun,
2 what group or -- excuse me. Strike that.
3 When you first came to work at Braun, what were
4 your responsibilities?
5 A This was the development of --
6 DR. STUTIUS: Shavers.
7 MR. SIEVERS: Mostly used for wet shaving.
8 A Shavers.
9 MR. SIEVERS: Internal definition he used.
10 MR. SHIMOTA: Q While you were employed at Braun,
11 did you work on any products other than shavers?
12 A As to shavers? We worked with variations of
13 shaver --
14 DR. STUTIUS: Actuators, drive systems.
15 A -- actuators and drive systems.
16 MR. SHIMOTA: Q Did you -- after working with the
17 actuators or drive systems, what did you work on then at
18 Braun?
19 A I worked on the development of the -- we
20 developed the first lady shaver for dry shaving. We
21 also had in mind but as did Japanese companies did so to
22 think about dry shavers that could be used as wet razors
23 as well, but we were not so sure -- we feared that we
24 would have problems with the sealing.

Page 31

1 Q Why did you feel there would be a problem with
2 the sealing?
3 A This would be the highest degree of problem if
4 water came into electrical device and electrical device
5 is connected to a socket, to an electricity.
6 Q When you say using a shaver for -- how would
7 you use a shaver in -- withdraw that.
8 How would you use a dry shaver in a wet
9 environment?
10 A As I know it I know it from advertisements,
11 from Japanese people, and they used it under the shower.
12 Q So at that time there were Japanese products
13 which -- there were Japanese shavers which could be used
14 in the shower?
15 A Yes, I think so, yes. We were a little bit
16 afraid that that could be affect our competition because
17 people could feel it would be like cleaner to do -- to
18 feel cleaner if they do wet shaving.
19 Q Let me ask you this. Who -- which company sold
20 these wet shavers?
21 A I can remember it was Japanese company maybe
22 but National.
23 Q Were these wet shavers -- well, do you recall
24 how this Japanese product was cleaned?

Page 32

1 A It could be cleaned and washed at least in
2 advertisement under running water under the faucet.
3 Q Do you remember -- do you recall when this
4 Japanese product was sold?
5 A For sure not exactly, but for sure many years
6 before I left Braun.
7 Q Would it approximately have been in the 1980s?
8 A That's possible in the '80s.
9 Q How did you come to see the -- withdraw that.
10 How did you come to possess the advertisements
11 for this Japanese product?
12 A Of course we at Braun also had a look at
13 competitor's products.
14 Q Was there a location at Braun where information
15 on competitor's products was stored?
16 A Yes, of course. We had the devices of our
17 competitors in a cupboard.
18 DR. STUTIUS: Cabinet.
19 A Cabinet.
20 MR. SHIMOTA: Q Was there a library at Braun in
21 which information on competitive products was
22 maintained?
23 A I do not know really about written information.
24 I think -- I know -- but essentially maybe if it had to

Page 33

1 do with patent application and patent department, but --
2 DR. STUTIUS: May have been sent to the patent
3 department where they may have had that.
4 He said -- He added that he only knows these
5 things from general publications otherwise.
6 MR. SHIMOTA: Q During the course of your work at
7 Braun, did you maintain a laboratory notebook?
8 A I put down for myself notices in writing for
9 myself, but this was not generally accessible.
10 Q When you say it was not generally accessible --
11 well, do you mean that your notes were not generally
12 accessible to the entire population of Braun?
13 A It was not like a laboratory book where
14 different people put in their notes. It was just --
15 it's just where notes I put it on myself. It was like a
16 diary for myself where I could see what I did with whom.
17 DR. STUTIUS: Just for personal recollection he
18 said.
19 MR. SHIMOTA: Q Did you keep this diary regularly
20 throughout your employment at Braun?
21 A For sure that one diary I kept regularly. I
22 just put down notes in accordance with the requirements
23 for the work, and sometimes they were regular notes and
24 sometimes they were not so regular.

9 (Pages 30 to 33)

Page 34

1 Q When you left -- well, was this diary kept in
2 -- what form was this diary kept in? Let me try to
3 rephrase this question.

4 Was this diary kept in a book?

5 A These were loose sheets that were just added
6 into --

7 DR. STUTIUS: Like a ring binder.

8 MR. SHIMOTA: Q Over the course of your career
9 would you retain the notes you kept in your diary in
10 binders?

11 A I certainly retained them for that period I
12 worked at that certain -- at that project.

13 Q Did you ever throw away any of the notes that
14 you had kept in your diaries?

15 A Of course. 27 years, lot of stuff.

16 Q Aside from your diary, in what other ways did
17 you keep written records of the work that you performed
18 at Braun?

19 A The essential part of my work was retained in
20 drawings and sketches.

21 Q Did you correspond with other engineers during
22 the course of your employment at Braun?

23 A Of course, a lot of.

24 Q And in what form would such correspondence

Page 35

1 take?

2 A I had direct contact, of course, with all those
3 who were present in my vicinity because these -- these
4 large scale offices with many people working in one
5 room.

6 Q Did you ever generate memoranda which were
7 transmitted to other engineers discussing your work?

8 THE INTERPRETER: Could you repeat it? Excuse me.

9 MR. SHIMOTA: Q Did you ever generate memoranda and
10 communicate such documents to other engineers at Braun?

11 A I know that such documents existed, and I also
12 received them, they exist within the company, but I
13 think not really or if seldom I did produce such memos.

14 DR. STUTIUS: He didn't originate them.

15 MR. SHIMOTA: Q How did you -- in general how did
16 you report the work that you were performing to your
17 supervisors at Braun?

18 A He came to me, to my work place, to my --

19 DR. STUTIUS: The drawing board.

20 A -- the drawing board and he talked to me.

21 MR. SHIMOTA: Q So -- did you ever generate written
22 reports which you would provide to your supervisors
23 describing your work at Braun?

24 A Not for superior himself. I would say for very

Page 36

1 special products we -- products we might have done this,
2 but not usually for the superior.

3 Q Can you recall the special products which you
4 provided memoranda to your supervisors?

5 A Not for superior, just in -- when he ordered us
6 to do this for others in his name, on his behalf.

7 Q What products were you ordered to generate
8 memoranda on behalf of a supervisor?

9 A I think of two different superiors there were
10 two level of superiors then. The lowest level of
11 superiors was with us within this large scale office,
12 but the superior who was above my -- the other superior,
13 Dr. Pahl, he had a separate office. When he wanted to
14 get information from me, he asked me to come to his
15 office.

16 Q When Dr. Pahl wanted to get information from
17 you, he would ask you to come to his office?

18 A Mostly.

19 Q And who was the other superior -- well,
20 withdraw.

21 Who was this higher up superior?

22 A That's Dr. Pahl. It's the last one when I was
23 employed with Braun.

24 Q Okay.

Page 37

1 MR. PATTON: When you come to a convenient stopping
2 break, I would appreciate if we could take a brief
3 break.

4 MR. SHIMOTA: We can take one now.

5 THE VIDEOGRAPHER: Here concludes tape 1, we are
6 going off the video record at 11:53 a.m.

7 (Off the record)

8 THE VIDEOGRAPHER: Good afternoon. We are going
9 back on the video record at 12:08 p.m. Here begins
10 tape 2.

11 MR. SHIMOTA: Q Welcome back.

12 When you were employed at Braun, did you ever
13 have access to electronic mail?

14 A In this whole time? I myself independently,
15 absolutely not.

16 Q When you say yourself -- did you have any
17 access to e-mail when you worked at Braun?

18 A To my knowledge I do not know -- I do not think
19 that e-mail existed when I worked with Braun.

20 Q You're aware that this litigation involves work
21 that you did on a cleaning system for shavers, correct?

22 THE INTERPRETER: That this litigation has to do
23 with this?

24 MR. SHIMOTA: Q Let me ask again. That this

Page 38

1 litigation -- are you aware that this litigation
 2 involves your work on a system for cleaning shavers?
 3 A Of course, yes.
 4 Q The diary -- excuse me.
 5 Did the diary -- did any of the diaries that
 6 you kept contain notes regarding your work done on the
 7 system for cleaning shavers?
 8 A Yes, of course.
 9 Q And over what period of time would you have
 10 generated notes regarding your work on the system for
 11 cleaning shavers?
 12 A For sure during that period that I worked on
 13 it. I'm not sure, but I think I worked until I left I
 14 think about 3 years. I think about 3 years until spring
 15 '95.
 16 Q So you would have added -- well, is it correct
 17 that your diary would have contained entries from
 18 approximately 1992 through 1995 related to your work on
 19 the system for cleaning shavers?
 20 A I cannot say it contains entries because it
 21 does not exist any longer.
 22 Q Why does your diary no longer -- well, why
 23 would your entries related to the system for cleaning
 24 shavers no longer exist?

Page 39

1 A Because I threw them away.
 2 Q When did you throw the documents away?
 3 A I cannot tell you the exact date, but for sure
 4 shortly after I left the company.
 5 DR. STUTIUS: Either shortly before or shortly
 6 after.
 7 MR. SHIMOTA: Q Did you retain any -- well, when
 8 you left the company in 1995, did you provide any of
 9 your documents related to your work on the system for
 10 cleaning shavers to anyone at Braun?
 11 A The drawings and possibly all sorts of sketches.
 12 I made they were left in a big drawer in the company.
 13 Q Where was the big drawer located?
 14 A I think it was then and I think also now in the
 15 existing department of development of shavers in this
 16 large scale, in this huge offices.
 17 Q And how many documents approximately would have
 18 been in this large drawer?
 19 A Dozens for sure. 5 dozens or double of 5
 20 dozens. As a rule these sketches and drawings were made
 21 on paper you could see through.
 22 DR. STUTIUS: Transparent foils.
 23 A Transparent foils then they made copies of it,
 24 various copies of it.

Page 40

1 MR. SHIMOTA: Q So there would have been -- is it
 2 fair to say there would have been nearly 100 documents
 3 in this large drawer?
 4 A I would say original documents less, but copies
 5 for sure several hundreds copies.
 6 Q How many original documents would you
 7 approximate were in the large drawer?
 8 A I could reasonably estimate about 50, but I
 9 cannot say for sure.
 10 Q Did you tell -- when you left Braun, did you
 11 tell anyone that these documents were in the large
 12 drawer?
 13 A This was for sure known because my name was
 14 labeled outside of the drawer, the name of Braun so the
 15 people could know, would know that these were in this
 16 drawer.
 17 Q Did -- when you were leaving or when you left
 18 Braun, did any -- did anyone at Braun ask you where your
 19 documents related to the shaver cleaning system work you
 20 performed were located?
 21 A I do not know if he asked me or I asked him or
 22 I informed him, but it was no secret that these
 23 documents all the time that they were in this drawer.
 24 Q When you say he or -- is there a particular

Page 41

1 person you're thinking about whether you informed or he
 2 asked you?
 3 A A few days before I left, maybe even after I
 4 left, I had a few holidays, free time, and I was asked
 5 to come in to inform my successor. And certainly I told
 6 him that these are in there and also the samples we had
 7 set up.
 8 Q Who was your successor?
 9 A I would have to ask Mr. Sievers. I cannot
 10 remember the name now.
 11 Q Would it have been Jurgen Höser?
 12 A I think he was new and he came new into the
 13 company or at least into our department.
 14 Q You also informed this gentleman that there
 15 were samples of the product?
 16 A Surely yes, I showed them to him.
 17 Q How many products would you have showed him
 18 approximately?
 19 A This was essentially a prototype, a functional
 20 sample we had set up, system with which we made for a
 21 long-time experiments but they were predecessor samples.
 22 DR. STUTIUS: Prototypes.
 23 A Prototypes which we made tests with, but which
 24 were not finished, these were also in this cabinet.

11 (Pages 38 to 41)

Page 42

1 MR. SHIMOTA: Q How many prototypes would there
2 have been approximately in the cabinet?

3 A The prototypes I was shown when I started with
4 my work, with my responsibilities, these are prototypes
5 that were already present which I did not set up. They
6 were not in the cabinet. These were in the cabinet of
7 Dr. Pahl. As far as I know this one functional sample
8 was the only one, the only thing could be that could be
9 there were parts, functional parts that were present but
10 I think this was the only one that worked, that was
11 operative.

12 DR. STUTIUS: Operational.

13 A Operational.

14 MR. SHIMOTA: Q And this prototype, this was
15 located in Dr. Pahl's cabinet?

16 A No, this one was in our cabinet. I worked with
17 that one the whole day.

18 Q Was this the original prototype that Dr. Pahl
19 had manufactured in France?

20 A No, this one was absolutely newly set up, made
21 up by us.

22 Q When you say us, who do you mean aside from
23 yourself?

24 A These were made completely according to my

Page 43

1 drawings.

2 DR. STUTIUS: In the model shop here at the company.

3 MR. SHIMOTA: Q So this is a -- well, this is a --
4 this would have been a second prototype? Let me
5 rephrase.

6 Is it correct that Dr. Pahl created the first
7 prototype of the shaver cleaning system?

8 A I do not know who developed it. I just know
9 that Dr. Pahl presented it to me and showed me that this
10 was the state of development and I continued further
11 with the work.

12 Q And the prototype that was in your cabinet,
13 would that have been a second prototype?

14 A It was my only prototype. It's possible that
15 Dr. Pahl showed me not only one but a second one as
16 well.

17 Q Why do you think it's possible that Dr. Pahl
18 might have shown you a second prototype?

19 A What I want to say is -- this prototype I had
20 was my own development. You cannot call it the second
21 one. It was my prototype. I was the one who ordered
22 the set up or the production of this prototype according
23 to my drawings.

24 Q Let me take one step back.

Page 44

1 When you were leaving -- well, you mentioned
2 that you told your successor about the documents in your
3 large cabinet and also -- the documents in the large
4 file and the prototype in your cabinet, is that correct?

5 A Yes, that's correct, of course.

6 Q And did you inform your successor about any
7 other information related to the shaver cleaning system?

8 A Of course, yes.

9 Q And what other information did you inform your
10 successor about?

11 A I did not retain anything. I knew about the
12 system, I told him everything.

13 DR. STUTIUS: I withhold -- I mean I didn't withhold
14 anything about the system.

15 MR. SHIMOTA: Q Aside from the documents in the
16 large cabinet, what other documents did you provide to
17 your successor prior to leaving Braun?

18 A I cannot say exactly if there were still other
19 documents. Maybe correspondence about components or
20 something components or sealings with companies that
21 delivered these with these components.

22 MR. SIEVERS: Suppliers.

23 A Like suppliers.

24 MR. SHIMOTA: Q In connection with your work on the

Page 45

1 shaver cleaning system you personally corresponded with
2 suppliers?

3 A Yes, of course.

4 Q Do you recall how many suppliers approximately
5 you corresponded with?

6 A Might be five or six. I do not think more.

7 Q Do you recall any particular suppliers that you
8 corresponded with?

9 A I think it was about sealants, maybe cleaning
10 fluid. I cannot name really other things or I could
11 contact with outside the company. I had within the
12 company with the departments like research department it
13 where I was supposed to be 4 or few years ago and I had
14 some contacts. There was quality control basically.
15 There's departments outside my department where I would
16 get us some information. I also had contact with the
17 department for toothbrushes.

18 DR. STUTIUS: Toothbrushes.

19 MR. SHIMOTA: Q Why did you contact the department
20 for toothbrushes?

21 A From what I recollect it was because they had
22 to do with cleaning and because with the shavers we also
23 had to do with cleaning and the toothbrushing department
24 as well.

12 (Pages 42 to 45)

Page 46

1 Q Who did you contact in the toothbrush
2 department regarding cleaning?
3 A I think I remember that Hilfinger was the head
4 of the department, but I did not talk with him directly.
5 I think I talked personally -- I think I talked to
6 people from his department, but I cannot remember names.
7 I do not recollect very well names in general.
8 Q Are there any documents that you could -- are
9 there any documents that could you look at which would
10 help you to be able to remember the names of the people
11 in the toothbrush department that you spoke with about
12 the shaver cleaning system?
13 MR. PATTON: Object to the form of the question.
14 THE INTERPRETER: But he should answer nevertheless?
15 MR. PATTON: If he can answer.
16 A If you have such documents and you show them to
17 me I could imagine that I could remember.
18 MR. SHIMOTA: Q Well, let me ask you this. Did you
19 have written correspondence between yourself and the
20 toothbrush department?
21 A I would be very astonished if there were
22 written correspondence.
23 Q Well, what information did individuals in the
24 toothbrush department provide you related to the shaver

Page 47

1 cleaning system?
2 A I do not know of really concrete clear
3 information from the toothbrush department. I remember
4 that I participated in tests with toothbrushes, I myself
5 used the toothbrushes to brush my teeth and that was
6 when I also came in contact with those people who
7 performed the tests.
8 Q Did you consider cleaning systems for
9 toothbrushes in connection with your work on the shaver
10 cleaning system?
11 A No. I do not feel reasonable approach or
12 reasonable point. It was just like a neighboring
13 department in the company which also was involved in
14 cleaning.
15 Q Well, did the individuals in the toothbrush
16 department provide you any assistance with respect to
17 your work on the shaver cleaning system?
18 A I do not think so. Dr. Pahl presented to me
19 this operational device and for cleaning the head, the
20 razor head, and this was already far developed. This
21 was already very effective. Excuse me.
22 Q Well, let me turn to that in a second. When
23 you left Braun what documents did you take with you?
24 A I think I left them where they were and only

Page 48

1 the personal documents not, but because nobody asked me
2 before I left.
3 DR. STUTIUS: It wasn't completely -- he was not
4 complete with his sentence yet.
5 A These loose sheets you called diary before I
6 took them but I destroyed them.
7 DR. STUTIUS: He threw them out, yeah.
8 MR. SHIMOTA: Q So I only took your -- well, when
9 you left in 1995 you only took your diary, is that
10 correct?
11 A I have not taken it with me. I have destroyed
12 it in the company. Oh, yes. I took something with me.
13 The patent documents, I have them at home, that's right.
14 Q Did you -- let me ask the first question first.
15 Aside from destroying your diary, did you leave all of
16 your other documents in your office for your successor?
17 A Maybe I also threw away copies of drawings when
18 I knew that the originals were still present like copies
19 where I made my own personal notes that I destroyed,
20 that I threw them away.
21 Q The patent documents that you mentioned taking
22 with you, can you describe these documents for me
23 generally?
24 A These are the documents -- I got the documents

Page 49

1 from the patent department with the applications, with
2 the date of applications and a few more things. Like
3 you could see the chronological process and the patent
4 document itself and that's what I took along with me.
5 DR. STUTIUS: Basically whenever published
6 application is granted patent he put it in binder for
7 personal retention.
8 MR. SHIMOTA: Q Did you also -- well, did you
9 retain or did you take prior art with you as part of
10 your patent file?
11 THE INTERPRETER: Excuse me. Did he take what with
12 him?
13 MR. SHIMOTA: Q Prior art.
14 A If it was part of the patent application then I
15 took it along with me.
16 Q Did you take -- did you take with materials
17 related to your U.S. patent application?
18 A Yes, but I could not read them.
19 Q Do you still have these particular documents
20 which we've been discussing?
21 A Yes.
22 Q Did you provide those documents to either
23 Braun's legal department or Ropes and Gray?
24 A No. I received them from the patent department

13 (Pages 46 to 49)

Page 50

1 so I suppose they have it.

2 MR. SHIMOTA: Well, I guess I'll say for the record
3 now I'd like to request those documents and the
4 documents that we've been discussing a bit and his
5 personal files. To the extent you have them, we would
6 like production of those documents.

7 MR. PATTON: I'll certainly ask Mr. Braun to provide
8 us with what he has. To the extent we don't have it
9 we'll take a look at it. And if it's not covered by a
10 privilege and requested, we'll certainly give it to you,
11 Jim.

12 MR. SHIMOTA: You don't need to translate that.
13 I'd like to mark as Defendant's Exhibit 1 a
14 document bearing the Bates range B001058 to B001063
15 which is the declaration of Dietrich Pahl.

16 (Exhibit 1 marked as requested)

17 Q We'd been discussing before the prototype which
18 was provided by Dr. Pahl to you.

19 A Yes.

20 Q In this declaration Dr. Pahl -- first, Dr. Pahl
21 refers to the prototype as the cleaning center. Do you
22 recall the term cleaning center?

23 A Yes.

24 Q In paragraph 7 Dr. Pahl states that the

Page 51

1 cleaning center had many components, including a trough
2 or cradle in which the shaving head of the dry shaver
3 could be placed.

4 Do you believe that statement is accurate
5 regarding Dr. Pahl's prototype?

6 DR. STUTIUS: Talking about trough or recess?

7 THE INTERPRETER: Trough or cradle.

8 DR. STUTIUS: Cradle I think that -- just for
9 synonymous with the patent language that was used it was
10 in the German patent aufnahmeteil.

11 A You mean that this cleaning center had a cradle
12 or a trough, is that what you mean?

13 Q Yes. The statement is, do you agree that
14 Dr. Pahl's prototype had many components, including a
15 trough or cradle, in which the shaving head of a dry
16 shaver could be placed?

17 A In way the razor with its head could be placed.
18 It is like the head is fixed on the razor -- on the
19 shaver and the shaver is placed into just cradle. Yes,
20 that's correct.

21 Q And were you aware that Dr. Pahl's original
22 prototype had a trough or cradle in which the shaving
23 head of a dry shaver could be placed in 1994?

24 A I think so. It was like Dr. Pahl showed me

Page 52

1 this device, but he did not leave it with me. He put it
2 back into his cabinet and told me now do improve this.

3 Q So you were aware though that Dr. Pahl's
4 original prototype had a trough or cradle in which the
5 shaving head of a dry shaver could be placed, is that
6 correct?

7 A Yes, of course.

8 Q If you look at paragraph 8, Dr. Pahl states the
9 cleaning center also had a container for cleaning fluid
10 which was positioned below the cradle. Do you agree
11 that Dr. Pahl's original prototype had a container for
12 cleaning fluid which was positioned below the cradle?

13 A I cannot say 100 percent, but I think it's very
14 well -- I think it's logical. I'm quite sure it was
15 like that.

16 Q And were you aware that Dr. Pahl's original
17 prototype had a container for cleaning fluid which was
18 positioned below the cradle in 1994, 1995?

19 A I think -- I think this should have been
20 earlier when I started with the work so two years
21 earlier than '95.

22 Q That's correct. In paragraph 11 Dr. Pahl
23 states the cradle had an output port, not labeled in the
24 drawing, connecting it to the fluid cleaning container.

Page 53

1 Do you agree that Dr. Pahl's original prototype
2 had an outlet port connecting it to the cleaning fluid
3 container?

4 A Yes.

5 Q And you were aware that Dr. Pahl's original
6 prototype had an outlet for connecting it to the
7 cleaning fluid container in the early '90s?

8 A Yes, of course.

9 Q And in paragraph 12, Dr. Pahl states, the
10 cradle also had an overflow device which allowed excess
11 cleaning fluid from the cradle to be drained directly
12 into the cleaning fluid container.

13 Do you agree that Dr. Pahl's original
14 prototype -- do you agree that in Dr. Pahl's original
15 prototype cradle had an overflow device which allowed
16 excess cleaning fluid from the cradle to be drained
17 directly into the cleaning fluid container?

18 A Yes, I think so, yes.

19 Q And in paragraph 15, Dr. Pahl states, the
20 functional model of the cleaning center also included a
21 dryer consisting of an impeller and a heater to aid in
22 the drying function.

23 Do you agree that Dr. Pahl's original prototype
24 included a dryer consisting of an impeller and a heater

Page 54

1 to aid in the drying function?

2 A Of which prototype do we talk now?

3 Q Dr. Pahl's original prototype.

4 A This I cannot remember. I cannot remember.

5 What I do remember and what I can remember is the
6 cleaning function in itself, but was still wrong that I
7 cannot remember. That's what I -- I do not know whether
8 this was in this original because in my -- what I know
9 is always overlaid about -- it's covered by what we
10 developed in this respect.

11 So I cannot say whether this model already had
12 all this and the thing is I cannot read it because it's
13 not in German. So I have more -- I more remember about
14 what we -- was our patent, not so much this one.

15 Q Well, when you saw Dr. Pahl's original
16 prototype, did you think that he had come up with a new
17 idea?

18 A I thought that then it was fantastic that you
19 could get rid of the debris by just putting shaver into
20 fluid. It was like magic because you knew about using
21 brushes but then just by putting it into fluid it was
22 free of debris in seconds.

23 Q So you thought Dr. Pahl's ideas were fantastic,
24 is that correct?

Page 55

1 DR. STUTIUS: He said actually magic.

2 A Not exactly maybe his idea but his product he
3 showed me was.

4 MR. SHIMOTA: Q Do you think that the original
5 prototype was not Dr. Pahl's idea?

6 A Dr. Pahl was the superior of my superior and it
7 was clear to me that Dr. Pahl cannot do this by himself
8 but that he orders others to do that. He lets other
9 people do that. The fact about this thing was what
10 impressed me not so much who did it.

11 Q Well, do you know anyone who worked on the
12 original prototype aside from Dr. Pahl?

13 A I myself personally did not know anybody, but I
14 heard afterwards there were an external group that
15 developed it under the direction of Dr. Pahl.

16 Q And what -- what was this external group?

17 A I think this was a group of a company that was
18 bought or incorporated later on by Braun.

19 Q Do you know where this company was located?

20 A In France.

21 Q Would this have been invented in Leon, France?

22 A If you like.

23 Q How did you learn that there was an external
24 group in France who worked on the original prototype

Page 56

1 with Dr. Pahl?

2 A I do not know whether he told me -- whether
3 Dr. Pahl told me -- maybe he also kept it a little bit
4 to himself. Maybe I saw drawings or maybe he showed me
5 drawings that might have been from France in French
6 then, and then only afterwards I think I heard about
7 this -- that this might be -- that we might be
8 incorporated.

9 Q From whom did you hear about this external
10 company?

11 A I cannot remember that somebody else would have
12 told me Dr. Pahl, maybe just step by step, but it was
13 also very -- this was secondary for me because my job
14 was to further develop this device, and I thought it was
15 better that it was the -- the beginning was made outside
16 but then inside the company.

17 Q Do you recall when you would have went
18 approximate -- when approximately you would have learned
19 that the original prototype was made in France?

20 A This was for sure very close to that date
21 Dr. Pahl asked me and ordered that I make these further
22 developments. For sure it was not much later in time.

23 Q Do you have any reason to believe that anyone
24 -- that individuals other than Dr. Pahl worked on the

Page 57

1 original prototype?

2 A Do you mean within Braun?

3 Q Any individual.

4 A These people who produced the prototype.

5 Q Do you recall the names of any of these people
6 in France who produced the prototype?

7 A No, I never had to do with these people. Maybe
8 once I heard the name, but I cannot recall at all name.

9 Q You mentioned seeing documents related to the
10 original prototype which were written in French. Do you
11 recall how many documents you would have seen
12 approximately that were written in French?

13 A Those I saw were not that many, but I think I
14 saw was an overview who showed -- a presentation of the
15 device.

16 Q Who made the complete presentation of the
17 device?

18 A This drawing, yes I suppose it was made in
19 France I think I might remember that they had different
20 look than the way we do it here but they were not made
21 up with Braun, but they came from external sources.

22 MR. PATTON: While Jim is doing this document, what
23 is -- what lunch arrangements can we make? Can we use,
24 go to the cafeteria.

15 (Pages 54 to 57)

Page 58

1 MR. SIEVERS: We can go. It's open until 2:00
2 o'clock. We have to be there -- sometime before 2:00
3 o'clock.

4 MR. SHIMOTA: Do a few more and we'll break for
5 lunch.

6 I would like to mark as Defendant's Exhibit
7 No. 2 document bearing the Bates number B001064. I
8 apologize for the size. I'll ask you the question, you
9 can take your time.

10 Does this refresh your recollection as to the
11 schematic you referred to?

12 (Exhibit 2 marked as requested)

13 A It's interesting to see it. It makes sense to
14 me. I cannot remember exactly or concrete really, but
15 it makes sense. But I mean it was not like I had this
16 at my place and did something based on this. It's more
17 like I might have seen it.

18 Q Does this also refresh your recollection that
19 the facility in France would have been owned by Braun at
20 least in 1993?

21 A It refreshes my recollection that this has to
22 do with the prototype Dr. Pahl showed me.

23 Q Do you believe this is an accurate schematic
24 representation of the original prototype?

Page 59

1 A I cannot say whether this was already in the
2 prototype or whether this is a drawing with the
3 projection of including these parts in the future.

4 Q Well, if you see at the bottom there's listed
5 the number 250293. Do you believe that Dr. Pahl would
6 have already shown you his original prototype prior to
7 February 25, 1993?

8 A I cannot really say anything to this date
9 exactly, but it's possible that I saw it before.

10 Q Well, when do you believe you started working
11 on the shaper cleaning system?

12 A It's difficult to remember the time. The older
13 you get the more difficult it gets. I thought -- I
14 supposed it was three years that I worked on it, but I
15 cannot say for sure.

16 Q Well, do you know whether after you started
17 working on the shaver cleaning system there were others
18 in France who continued to work on the shaver cleaning
19 system as well?

20 A I think that's possible. It might be possible.

21 Q Did you ever hear that there were others still
22 working on these shaver cleaning system while you were
23 working as well?

24 A If I heard so it was only by say hear --

Page 60

1 DR. STUTIUS: Rumor.

2 A Rumors, by hearsay.

3 MR. SHIMOTA: Q Do you recall hearing that or --
4 well, do you have any recollection of any such rumors?

5 A There were rumors among colleagues that, for
6 example -- I think it was Dr. Hexner, he was --

7 MR. SIEVERS: Hexner.

8 A Hexner. He was a superior of Dr. Pahl, that he
9 might be involved in having developed such things
10 outside the company, but I do not know. I just hear
11 rumor and maybe.

12 MR. SHIMOTA: Q So Dr. Hexner was Dr. Pahl's
13 superior?

14 A I'm not very sure about exactly the time, but I
15 know he was one level above and also at a former time he
16 was technical director.

17 DR. STUTIUS: Technical manager, technical director.

18 MR. SHIMOTA: Q Was he -- did you ever report to
19 Dr. Hexner regarding your work on the shaver cleaning
20 system?

21 A I had contact with Dr. Hexner before I had -- I
22 worked with the cleaning device for shavers. He was the
23 one who said I should go to research and to work there
24 on the pivoting shavers.

Page 61

1 MR. SIEVERS: Pivoting head of shavers. It's fixed
2 but it's pivotable mounted. So called swivel.

3 MR. SHIMOTA: Q Well, with regard to the rumors
4 what in particular was it rumored that Dr. Hexner did
5 with respect to the shaver cleaning system?

6 A I just related Dr. Hexner was -- not because I
7 wanted to say that he had to do with the cleaning
8 device. It was just in connection that he might have
9 been active in developments outside the facilities,
10 outside the Braun facilities.

11 Q So did Dr. Hexner have anything to do with the
12 shaver cleaning system?

13 A I cannot say even if he was in this function
14 before. Just I know he was in this function when I
15 developed the swivel system.

16 Q You mentioned that you thought that the
17 original prototype was magic. What did you think
18 particularly was magic about the original prototype?

19 A If you try to get to clean a blade like with a
20 brush and try to get rid --

21 MR. SIEVERS: Cutter block?

22 A If you try to clean a cutter block and to get
23 rid of this greasy stuff and then you see how this can
24 happen within seconds just by putting it into a fluid,

16 (Pages 58 to 61)

Page 62

1 that's magic.
 2 MR. SHIMOTA: Q Did you think it was magic that the
 3 cleaning fluid container was located below the trough in
 4 which the shaver sat?
 5 MR. PATTON: I object to the form of the question
 6 but --
 7 A No, no.
 8 MR. SHIMOTA: Q Did you think it was magic that the
 9 cleaning trough was open to the atmosphere?
 10 MR. PATTON: Same objection.
 11 A Just the phenomenon it can clean itself within
 12 seconds that was the thing that was magic.
 13 MR. SHIMOTA: Q Did you think that Dr. Pahl's
 14 prototype was something that no one else had thought of
 15 before?
 16 A It was plausible to me that one would try to
 17 make such a device. What impressed me was the
 18 phenomenon that a cutter block -- that a movable cutter
 19 block could be cleansed in that way.
 20 Q Well, what about the movable -- well, what
 21 influenced the speed of the cleaning of the cutter
 22 block?
 23 A It's the --
 24 DR. STUTIUS: The frequency.

Page 63

1 A The frequency and the cleaning fluid -- the
 2 frequency with which the cutter block moves.
 3 DR. STUTIUS: And the cleaning fluid.
 4 MR. SHIMOTA: Q So the two variables which affect
 5 -- well, the two variables which affect -- what
 6 impressed you the most would be the vibration of the
 7 cutting head and the cleaning fluid, is that correct?
 8 A This is an absolute abstract presentation.
 9 What impressed me was that the debris was removed so
 10 fast.
 11 Q Let me ask you this question then we can try
 12 and break for lunch.
 13 You stated it was plausible that someone else
 14 would have -- that -- you say you thought it was
 15 plausible that another individual would have tried to
 16 make a device such as Dr. Pahl's prototype. Why did you
 17 believe that it was plausible?
 18 A To me it was plausible and interesting that a
 19 device or a system would be developed that would further
 20 develop the possibility to clean a cutter blade of the
 21 cutter without having to -- the shaver without having to
 22 remove the cutter blade and just by putting --
 23 MR. SIEVERS: The foils.
 24 A Without having to remove the foil.

Page 64

1 MR. SIEVERS: Coming underneath the foil.
 2 DR. STUTIUS: I think what he means that once you
 3 realize that -- not word by word, but paraphrase. Once
 4 you realize you can clean a moving cutter blade in a
 5 cleaning fluid it would be not obvious but it would be a
 6 challenge and it would be interesting to develop a
 7 station that automatically performs that function. That
 8 was the gist of the response.
 9 MR. SIEVERS: Without removing the head or
 10 disassembling the head he said.
 11 MR. SHIMOTA: Well, did -- and Dr. -- this will be
 12 the last question.
 13 Q In Dr. Pahl's original prototype did you need
 14 to disassemble the shaving head?
 15 A I would be very astonished if this had been the
 16 case. I don't -- this cannot be. The phenomenon was
 17 that exactly this closed system could be just put into
 18 this fluid and it was cleaned.
 19 MR. SHIMOTA: Okay.
 20 MR. SIEVERS: Without removing the shaving head.
 21 MR. SHIMOTA: Why don't we take a break for lunch if
 22 that's okay with everyone.
 23 THE VIDEOGRAPHER: We're going off the video record
 24 of tape 2 at 1:34 p.m.

Page 65

1 (Off the record)
 2 THE VIDEOGRAPHER: We're going back on the video
 3 record at 2:27 p.m. Here continues tape 2.
 4 MR. SHIMOTA: Q Welcome back.
 5 I would like to mark as Defendant's Exhibit 3 a
 6 document bearing the Bates label B003075 to B00 -- I
 7 take that back. Begins B003074 to B003076.
 8 (Exhibit 3 marked as requested)
 9 Q I'd like to ask you is this a picture of
 10 Dr. Pahl's original prototype?
 11 A Was this a question to me?
 12 Q Yes, the question is to you.
 13 A For sure I would not have been able to draw it
 14 or sketch it like this because I only saw it during a
 15 short period of time all the times I saw it, but I'm not
 16 100 percent sure whether this was how it was 100 percent
 17 from the beginning on but I would say that this existed
 18 as it is.
 19 Q Well, is this a picture of a prototype that you
 20 personally contributed to the development of?
 21 THE INTERPRETER: That you contributed to?
 22 MR. SHIMOTA: Let me try and rephrase.
 23 Q Is this a picture of one of the prototypes that
 24 you worked on developing?

Page 66

1 A No, for sure not.
2 Q Why do you say for sure not?
3 A I'm convinced I would realize that it is mine
4 if it were mine, but I only had short, like, glimpses
5 I'm sorry, and I saw it operating, but it's not the one
6 I made.
7 Q Did Dr. Pahl's original prototype have a
8 removable cleaning fluid cartridge?
9 A As I can see from the picture, and also as I
10 remember it, it was possible to remove the upper part
11 and the lower part remained.
12 Q So the cleaning fluid container and -- was the
13 cleaning fluid container in the original prototype
14 located below the cradle?
15 A Yes, sure.
16 Q And did the -- in the original prototype did
17 the removable cleaning fluid cartridge include a filter?
18 A I saw it on the drawing we had before that it
19 contained a filter, but I would not have known it
20 contains a filter from recollection.
21 Q Did the original prototype include a bracket?
22 A A bracket?
23 MR. PATTON: I just would like -- Jim, I just --
24 MR. SIEVERS: Because I think the bracket if it's

Page 67

1 translated there -- bracket has different meanings.
2 MR. PATTON: I wanted to clarify the record in a
3 couple of parts, one is to ask that you clarify by what
4 you mean by bracket. But also, Mr. Braun is looking at
5 a photograph, which I don't think he has identified as a
6 photograph of the original prototype. I think he has
7 said he can't be certain whether it is. So your
8 questions are relating to the original prototype. I
9 just want the record to be clear we don't know whether
10 it's this.
11 MR. SHIMOTA: That's fair, but I am trying to probe
12 his recollection.
13 MR. PATTON: I'm not objecting to your asking about
14 his original prototype, but he's looking at a picture,
15 and I just don't want him to be confused what he's --
16 MR. SHIMOTA: Let me try and ask the question again.
17 Q Did the original prototype include a support
18 for the shaving apparatus?
19 DR. STUTIUS: For the shaver, right? Support for
20 the shaver?
21 A You can see that it can be put inside but not
22 -- it's not fixed. The device could be taken out all
23 the time during the process, could be removed all the
24 time during the process.

Page 68

1 MR. SHIMOTA: Q So -- let me think. Did there come
2 a time where the shaver cleaning system was changed such
3 that a structure was included which stopped the shaver
4 from being removed from the cleaning device?
5 A I did not change anything at this device. I
6 cannot remember that something was changed on this
7 device. This was an existing, original model and that's
8 how it stayed.
9 DR. STUTIUS: Early prototype.
10 MR. SHIMOTA: Q Well, in any of the later work that
11 you did did you ever add or -- in the later work that
12 you did on the shaver cleaning systems, did any of your
13 prototypes include a bracket for insertion of the
14 shaving apparatus?
15 A Yes, sure. We had anticipated this in the
16 drawing.
17 Q What drawing are you referring to?
18 A My work was mainly almost working on the
19 drawing board and that I draw -- was drawing this was
20 later on executed by other people -- by builders who
21 built the samples.
22 Q Well, what did you do or what -- what were your
23 improvements upon Pahl's idea for the cleaning center?
24 A One part was for sure this locking device so

Page 69

1 that the device could not be removed during this
2 process, during the cleaning process.
3 The second thing was that I civilized the
4 cleaning process which means I tried to prevent strong
5 splashing that was produced.
6 The third thing was the development insofar --
7 of the device that the fluid itself does not become
8 dirty in the container. This means to have this process
9 separate from the fluid.
10 Q What do you mean the process separate from the
11 fluid?
12 A This means the process that taking out the dirt
13 from the block that this dirt will not enter the fluid,
14 the cleaning fluid.
15 DR. STUTIUS: Not to be deposited in the cleaning
16 fluid.
17 MR. SHIMOTA: Q How -- what did you do to stop dirt
18 from being deposited in the cleaning fluid?
19 A What I did I put a second container below the
20 cleaning fluid container where the dirty fluid could be
21 pumped so it's used in the process of suction, suction
22 process.
23 DR. STUTIUS: Actually it's a second container or
24 second receptacle underneath what we call the patent

18 (Pages 66 to 69)

Page 70

1 cradle, under the cradle.

2 MR. SHIMOTA: Q So there was -- you had your
3 solution -- what you did was include a second container
4 within the cleaning fluid container?

5 A As I remember there was a double-walled
6 container and the overflow went -- of the dirt went into
7 a second container below where it was sucked from.

8 Q I'd like to mark as defendant's Exhibit 4 U.S.
9 patent number 5,711,328 issued to Gebhard Braun.
10 (Exhibit 4 marked as requested)

11 Q If you could direct your attention to Figure 1
12 and item 20.

13 THE INTERPRETER: 20?

14 MR. SHIMOTA: Yes.

15 A What is the question?

16 MR. SHIMOTA: Q Is item 20 the second container
17 below the cradle that you're referring to?

18 A No. Number 20 is the tube where it is
19 transported through.

20 Q So is the second container shown in this
21 drawing?

22 A Yes, but I'm a little bit confused, but I think
23 it's number 7. It's unclear. In Figure 6 you have a
24 scheme presentation, schematic presentation, and the

Page 71

1 fluid is number 40.

2 Q What is item 65?

3 A In Figure 6?

4 Q Yes.

5 A Yes, this is the external container.

6 Q So that is the second container that you
7 referred to, correct?

8 A No, that's how I see it from -- how I see it.

9 Q Did you -- is this a drawing that you
10 personally prepared?

11 A I'm not sure whether I did make this drawing
12 like this. I could imagine that it was made in the
13 patent department according -- on the basis of a sketch
14 from me.

15 Q And do you see item 61?

16 A Yes.

17 Q Do you know what item 61 is?

18 A I think this is the filter cartridge.

19 Q Is that -- is that also another cleaning fluid
20 container too?

21 THE INTERPRETER: Is this also another cleaning --

22 MR. SHIMOTA: Q Another cleaning fluid container.

23 A This contains the fluid, the container of the
24 fluid where the fluid from 65 is transported to and is

Page 72

1 where the process is deposited.

2 Q Is that an accurate representation of the third
3 improvement you made to Dr. Pahl's original work?

4 MR. PATTON: Object to the form of the question.

5 MR. SHIMOTA: Let me reask the question.

6 MR. PATTON: My question is what.

7 MR. SHIMOTA: You're well taken.

8 Q Are items 65 -- is the combination of items 65
9 and 61 in this representation of the cleaning device an
10 accurate representation of the third improvement you
11 made to Dr. Pahl's original work?

12 A I cannot say whether it's the third or the
13 first. I cannot differentiate it. It is one of these.

14 MR. SHIMOTA: Q Just to clarify, the third was you
15 mentioned the -- keeping the -- well, avoiding the
16 deposition of dirt in the cleaning fluid container.

17 A It was thought that we have a clean -- clear
18 and clean fluid cleaning that will be transported via 64
19 to the other compartment. To provide clean cleaning
20 fluid to the shaver for cleaning.

21 Q You point to item 64 when you mention that, on
22 64. Is item 64 part of the cradle structure?

23 A Yes, this is just how the principle works.

24 DR. STUTTIUS: Schematic drawing.

Page 73

1 A Schematic drawing. Of course we pumped in the
2 fluid literally into the container.

3 MR. SHIMOTA: Q You pumped the fluid into the
4 container.

5 DR. STUTTIUS: Actually the wanne is the trough.
6 It's not the container.

7 MR. SHIMOTA: Q So you pumped the fluid -- is it
8 correct you pumped the fluid literally into the trough?

9 A Yes.

10 Q Was it also correct that you filled the trough
11 -- you filled the trough with fluid?

12 A Of course.

13 Q Did you ever create a shaver cleaning system in
14 which the trough did not retain fluid?

15 THE INTERPRETER: What do you mean retain?

16 MR. SHIMOTA: Q Hold.

17 A Do you mean this was only like -- spray? One
18 could imagine it was only spray. No, we did not do such
19 a thing. It was always immersed in the fluid.

20 Q And why was it always immersed in the fluid?

21 A Because this showed this fantastic cleaning
22 effect. We found that this especially was the reason
23 why the device could clean itself so fast and the fluid
24 could enter through the falls through these small

19 (Pages 70 to 73)

Page 74

1 openings and we felt this could not have been achieved
2 by spraying.

3 Q So you considered -- well, in your work did you
4 ever attempt to develop a cleaning system in which the
5 shaver was sprayed with cleaning fluid as opposed to
6 being bathed?

7 A No.

8 Q In your work at Braun, did you ever think of
9 the idea of pumping fluid into the interior of the
10 shaving head to flush out hair?

11 A To pump fluid into the shaver this could not
12 be.

13 Q Why do you say you could not pump fluid into
14 the shaver?

15 A You do not want to clean the whole shaver. We
16 just want to clean the cutting head.

17 Q What I meant is, did you ever think of pumping
18 fluid directly into the shaver head to flush out hair?

19 MR. PATTON: I object to the form of the question.

20 A What we found out that if the trough was not
21 filled high enough, if the level of the fluid was too
22 low to cover the cutting head the result was not so
23 good.

24 MR. SHIMOTA: Q Well, if you wouldn't -- did you

Page 76

1 A The idea that the customer who was supposed to
2 buy it to use this device that it was easier for him to
3 operate the device which means that he would not take
4 out or remove the device during the cleaning process and
5 not during the time as it was still wet but only
6 afterwards when it was dried.

7 Q Do you recall how you came to think of adding
8 the locking mechanism to the cleaning device?

9 A I think it came -- I don't know. By incident
10 or willfully that we talked to people on probation.

11 DR. STUTIUS: Test --

12 A Test process, and I think they -- that's how it
13 came -- how we came to know. They said you cannot allow
14 that the device will be handled when it's wet.

15 MR. SHIMOTA: Q Do you recall who within
16 approbation told you that the device could not be
17 removed while it was wet?

18 MR. PATTON: Object to the form of the question.

19 A I do not remember that somebody told me from
20 the approbation department, but from the many years of
21 experience I had and the contact with this department I
22 knew that the customer should not remove this device
23 when it was wet. It's possible I talked about that with
24 Dr. Pahl. I was in contact with him during that time.

Page 75

1 ever test it where the cradle was not filled with fluid
2 at all? Let me rephrase it.

3 Did you ever test the cleaning system in a
4 situation where there was no fluid retained in the
5 cradle structure?

6 A This was like if I just turned the razor with
7 the head down and I just operate it. How should this
8 cleaning work? This would mean we would not need a
9 cleaning system. This would mean we just had to turn
10 the razor and to run it.

11 THE VIDEOGRAPHER: Counsel, I need to change tapes.

12 MR. SHIMOTA: Take a quick break.

13 THE VIDEOGRAPHER: This concludes tape 2. We're
14 going off the video record at 3:00 o'clock p.m.

15 (Off the record)

16 THE VIDEOGRAPHER: We're going back on the video
17 record at 3:12 p.m. Here begins tape 3.

18 MR. SHIMOTA: Q I'd like to step back to the
19 improvements that we discussed that you made to
20 Dr. Pahl's original work. You mentioned first a locking
21 mechanism. Do you recall that?

22 A Do you want to hear again the other two?

23 Q No. What was the purpose of the locking
24 mechanism?

Page 77

1 MR. SHIMOTA: Q What in your years of experience
2 led you to think that you could not remove the device --
3 what in your years of experience led you to believe that
4 you could not remove the shaver from the cleaning device
5 while it was still wet?

6 MR. PATTON: Object to the form.

7 A Just general knowledge that it's hazardous to
8 your life that if you -- electrical device, for example,
9 falls into water you should not grab for it.

10 MR. SHIMOTA: Q The second improvement you
11 mentioned to Dr. Braun's prototype was lessening the
12 splashing of fluid. Can you tell me what you did to
13 diminish the splashing of fluid?

14 MR. SIEVERS: Splashing in the container was the
15 question I think. In the container.

16 THE INTERPRETER: Could you repeat the question,
17 please.

18 MR. SHIMOTA: Q Sure. You mentioned earlier in
19 your testimony that you minimized the splashing of the
20 fluid I believe in the trough, and I was wondering what
21 it was you did to minimize the splashing of the fluid in
22 the trough.

23 A What we did was we closed the container very
24 tightly around the head. It was important that the

20 (Pages 74 to 77)

Page 78

1 level was not too high and that it was not too open to
2 the outside. I cannot say precisely how it was with
3 Dr. Pahl's device, but the problem was that there was
4 some -- too much water.

5 DR. STUTIUS: Wetting of the surfaces.

6 MR. SHIMOTA: Q How tight did you configure the
7 trough -- how tightly was the trough configured to hold
8 the shaving head?

9 A It was for sure only few millimeters of
10 distance to the outer limit -- limitation of the head.

11 Q And you configured the trough -- well, you
12 configured the trough in that way to avoid the splashing
13 of fluid, is that correct?

14 A Yes.

15 Q And you did that to optimize the work by -- you
16 did that to optimize Dr. Pahl's original work, is that
17 correct?

18 MR. PATTON: I object to the form of the question.

19 A I do not precisely remember how the original
20 device was configured, but I know that below that there
21 had to be a safe distance of the heads in the middle and
22 after cutting head -- the head had to be free on the
23 down side below, free, it should not contact anything
24 below, but it should be tight on the sides. Tightly

Page 79

1 closed on the sides.

2 MR. SHIMOTA: Q You developed that -- you developed
3 that solution to optimize your work on the shaving --
4 shaver cleaning system, correct?

5 MR. PATTON: Same objection.

6 A What is for sure we wanted to optimize the
7 cleaning system but we wanted to have it open. We did
8 not want it to be -- to immerse, to be covered, to go in
9 a --

10 DR. STUTIUS: Recess, recess part.

11 A -- in a recess part.

12 MR. SHIMOTA: Q You didn't want the shaver to go in
13 a recessed part?

14 DR. STUTIUS: The liquid applied to the shaver,
15 wanted to prevent liquid.

16 A We wanted to avoid that the razor itself was --
17 would get into contact with fluid or would get -- be
18 splashed at all because it was not sealed, or
19 housings -- our housings are not insulated and that's
20 why they --

21 DR. STUTIUS: Sealed.

22 A Sealed. That's why they should not be within
23 the range of fluid or splashes.

24 MR. SHIMOTA: Q So in order to avoid the splashing

Page 80

1 of fluid, you configured the trough so that it was tight
2 on the side -- tight on the sides and there was some
3 give at the bottom?

4 A We wanted that the head of the razor is almost
5 as far as possible tightly enclosed and nevertheless can
6 be removed easily.

7 Q How did you accomplish those two aims?

8 A This I did so that the front was open and that
9 the device can be easily taken out and removed, but that
10 -- the other part is --

11 DR. STUTIUS: Only the head was.

12 A The head was closed. As you can see from this
13 sketch, from this drawing.

14 MR. SHIMOTA: Q So the head, the shaving head is
15 enclosed?

16 A Yes.

17 Q So when the shaving head is being cleaned it is
18 not open to the atmosphere?

19 A It was not totally open, but a little bit there
20 was a small --

21 DR. STUTIUS: An anular gap, peripheral gap.

22 A That it had contact with the atmosphere.

23 MR. SHIMOTA: Q So the small anular gap that was --
24 small anular gap was no more than a few millimeters, is

Page 81

1 that correct?

2 A Yes.

3 Q Beyond the three improvements which you've told
4 me that you made upon Dr. Pahl's original work, can you
5 think of any other improvements that you made?

6 A It was regarding the drive. It was by a
7 special contraption we were able to drive with only one
8 motor both the pump and the regulator.

9 Q Beyond that can you think of any other
10 improvements that you made to Dr. Pahl's work?

11 A Yes, like details, for example, that at the
12 same time we used the device as charging device, and as
13 a wall mount so that the device could stand.

14 Q Without the wall mount the device could not
15 stand?

16 A Not upside down. As a rule all devices have a
17 wall mount.

18 Q When you say a wall mount, is it something that
19 is actually attached, physically attached to a wall?

20 A Usually wall mounts are made that way that they
21 are fixed to the wall, but not in this case. It only
22 has the function of such a wall mount.

23 Q Why in this case -- why in this case was the
24 wall mount not used for attachment to a wall?

21 (Pages 78 to 81)

Page 82

1 A The concept was that there was no necessity for
2 a wall mount for a device being cleaned. This device
3 should be wall mount charging device and cleaning device
4 in one.

5 Q So what is the purpose of the wall mount if it
6 is not used for attachment to the wall?

7 A The wall mount does not hold the wall but the
8 shaver. It's just that it's stowed away and it's not
9 lying on any tray. It's held in a part.

10 Q So the wall mount is supporting the shaver, is
11 that correct?

12 A It's that it holds it tight and protects it.
13 We can also -- we do not need the protection cap that
14 protects the cutting part, components, the sensitive
15 cutting components.

16 Q What is the protection cap that you're
17 referring to?

18 A It is as follows. A razor foil is perforated
19 foil that only has one-hundredths or thousandths of
20 millimeters thick. It's very sensitive to nails or
21 fingers and that's why usually as a rule we use a
22 protection cap at Braun.

23 Q Okay. So if it's stored in the cleaning device
24 then you wouldn't need the protection cap?

Page 83

1 A Exactly.

2 Q Beyond what we've already discussed, can you
3 think of any other improvements that you made to
4 Dr. Pahl's original work?

5 A I do not know whether you realized already that
6 the filter tube is also component of this device.

7 Q What was the purpose of the filter tube?

8 A First, the filter function this means the
9 unclean fluid, the debris fluid is pumped along this
10 tube, and, second, it is for a cleaning.

11 THE INTERPRETER: Could you repeat --

12 A The tube is immersed into the clean cleaning
13 fluid without making it dirty. It has to function as
14 it's shown in the filter, the inside is the dirty fluid
15 and outside the clean fluid, and this insert within the
16 fluid is permeable for clean water.

17 DR. STUTIUS: Clean fluid.

18 A Clean fluid.

19 MR. SHIMOTA: Q So it operated such that you would
20 have fluid that would go through the hose member then it
21 would go through the suction side of the pump then it
22 would be fed into the filter, then the fluid would be
23 fed back to the trough, is that correct?

24 THE INTERPRETER: Could you repeat that part?

Page 84

1 MR. SHIMOTA: Q Sure. You'd have fluid which would
2 be drained through the hose member, that fluid would
3 then proceed to the suction side of the pump, it would
4 then proceed through the filter, then the fluid would be
5 sent to or transported to the trough again?

6 A Not the fluid within the tube because within
7 the tube is the dirty fluid. The clean fluid is still
8 in the container, remains in the container.

9 Q So what is the purpose then of the filter in
10 Figure 7?

11 A The purpose is as you can see that outside you
12 have clean fluid and inside is the dirt accumulated.

13 Q So is it correct then that dirty fluid is
14 pumped through inlet 50 and then --

15 A Right.

16 Q And clean fluid flows out through outlet 64?

17 A So the pressure in tube 50 at the same time
18 through 64 the clean fluid is at the same time pumped
19 out.

20 Q Did you ever consider only using the hose
21 member to filter dirty fluid?

22 DR. STUTIUS: The dirty -- permeable hose member?

23 MR. SHIMOTA: Yes.

24 A It functions like in a filter tube. This was

Page 85

1 how -- this was the idea. This was for seeing in the
2 drawing. The idea was the dirty fluid would be
3 transported through this smoothest member and that
4 smoothest section device that the tube would be always
5 full, that the clean water would enter the tube through
6 suction.

7 Q Did you ever consider modifying Figure 1 to
8 remove the permeable hose member?

9 A We worked on different possibilities for that
10 patent application which could have been used as a
11 choice, alternatively.

12 Q Which choice did you prefer?

13 Let me rephrase that question.

14 As between operating the device with the hose
15 member or without the hose member, which choice did you
16 personally prefer?

17 A To be on the safe side we decided to have these
18 alternatives. If I had to decide now what we did 12
19 years ago, I would start again to work on the subject
20 and then decide.

21 Q Well, did you personally prefer the use of the
22 hose member over an embodiment without the hose member
23 when you were doing your work?

24 A I think in our functional model the fluid

22 (Pages 82 to 85)

Gebhard Braun April 26, 2005
Volume 1

Page 86

1 container with the fluid that was clean and we pumped
2 the dirty fluid into the filter and the clean fluid was
3 pumped into the cleaning trough.

4 Q Let's see if I understand that. So did you, in
5 fact, think the device worked better without the hose
6 member?

7 A I think that was the idea. The things id we
8 would have had to develop this permeable hose member and
9 I think it was not yet developed fully.

10 Q And because it was not developed fully -- is it
11 correct that because the hose member was not developed
12 fully it was not implemented?

13 A It was not all incorporated because we were
14 able to set up a functional and operable sample without
15 it.

16 Q And how were you able to do that?

17 A As I said before this functional scheme,
18 Figure 6, fluid we had in number 40, via pump number 23,
19 via the tubing 50, the dirty flood was pumped into the
20 filter, which cleaned it and pumped it back via this
21 tube with a number into -- pumped back to -- to tube 64.

22 Q You mentioned earlier that most of the work
23 that you did on the device was in the drafting of the
24 science, is that correct?

Page 87

1 A This is right at least for the beginning of the
2 works because without this draftings or drawings or the
3 prototype could not be set up. When the prototype was
4 ready it was my task to test it, to improve it or to
5 have it improved, to change the components or parts
6 until the prototype as a whole worked in a way that was
7 acceptable for all.

8 Q Did you do any -- I know you mentioned earlier
9 in the day that you talked with the suppliers of
10 cleaning fluid, is that correct?

11 A I said it is possible that I talked to him to
12 receive cleaning fluid. I have a very vague idea now
13 that he received fluids, but I'm not sure whether we
14 even used them. I think the fluids were selected by
15 Dr. Pahl. I think I received -- I asked -- was
16 supplied -- to send it to me, but we did not even use it
17 at all. It was just in the cabinet. It was more for
18 later use for production that it was -- which fluid
19 could be used but what we used for the testing phase we
20 had already.

21 Q What did you use for the testing phase?

22 A The fluid Dr. Pahl provided me with and I did
23 not know -- what it was.

24 Q So you did know what the composition of the

Page 88

1 cleaning fluid was?

2 A Yes, that's right, that does mean that. This
3 was a thing of chemistry and I was not interested in --
4 it was not my task to care about that.

5 Q Well, department -- I mean well -- when you
6 tested the device, didn't the composition of the
7 cleaning fluid affect the efficacy of the cleaning?

8 A Yes, it's possible, but regarding the effect of
9 the cleaning we think we did not have a problem. We
10 thought we should improve the cleaning fluid for the
11 effect of the cleaning which had to be fat soluble and
12 talcum soluble.

13 DR. STUTTIUS: Residue from the shaving, talcum and
14 sebum.

15 A Sebum soluble.

16 MR. SHIMOTA: Q You knew that the cleaning fluid
17 had to be talcum soluble, correct?

18 A Yes.

19 Q At some point you started working on the
20 cleaning fluid, correct?

21 A I cannot remember that I would have optimized
22 that.

23 Q Who would have?

24 A I think regarding the cleaning fluid Dr. Pahl

Page 89

1 in the house -- I think in the house of Braun, Braun
2 Company they would have performed a lot of tests in the
3 quality test department and you had connections in the
4 house and I suppose Dr. Pahl received cleaning fluid
5 from quality department in the house, or the testing
6 department of the company.

7 MR. PATTON: Jim, is this -- 4:00 o'clock, I'd like
8 in any event to take a short break and then ask you how
9 much longer you think you may have to see what --

10 MR. SHIMOTA: I have quite a bit more so --

11 MR. PATTON: I think perhaps we ought to adjourn
12 then for the day. I don't want Mr. Braun to get too
13 tired from this. Perhaps I can talk to him off the
14 record, we can see how he's feeling.

15 Do you have any estimate of how much?

16 MR. SHIMOTA: I would think it would be probably a
17 full day roughly speaking.

18 MR. PATTON: Okay. We'll take a break and have a
19 discussion.

20 THE VIDEOGRAPHER: We're going off the video record
21 of tape number 3 at 4:01 p.m.

22 (Off the record)

23 -----
24 STATE OF ILLINOIS)
) SS:

23 (Pages 86 to 89)

Gebhard Braun April 26, 2005

Volume 1

Page 90

1. COUNTY OF COOK)

2.

3. The within and foregoing deposition of the
 4. aforementioned witness was taken before CAROL CONNOLLY,
 5. CSR, CRR and Notary Public, at the place, date and time
 6. aforementioned.

7. There were present during the taking of the
 8. deposition the previously named counsel.

9. The said witness was first duly sworn and was
 10. then examined upon oral interrogatories; the questions
 11. and answers were taken down in shorthand by the
 12. undersigned, acting as stenographer and Notary Public;
 13. and the within and foregoing is a true, accurate and
 14. complete record of all of the questions asked of and
 15. answers made by the forementioned witness, at the time
 16. and place hereinabove referred to.

17. The signature of the witness was not waived,
 18. and the deposition was submitted, pursuant to Rule 30
 19. (e) and 32 (d) 4 of the Rules of Civil Procedure for the
 20. United States District Courts, to the deponent per copy
 21. of the attached letter.

22.

23.

24.

Page 91

1. The undersigned is not interested in the within
 2. case, nor of kin or counsel to any of the parties.
 3. Witness my official signature and seal as
 4. Notary Public in and for Cook County, Illinois on this
 5. _____ day of _____, A.D. 2005.

6.

7.

8. CAROL CONNOLLY, CSR, CRR
 9. CSR No. 084-003113
 10. Notary Public.
 11. 230 West Monroe Street
 12. Suite 1500
 13. Chicago, Illinois 60606
 14. Phone: (312) 263-3524

11.

12.

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18.

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23.

24.

Page 92

1. IN THE UNITED STATES DISTRICT COURT
 2. FOR THE DISTRICT OF MASSACHUSETTS.

3.

3. BRAUN GmbH,)

4. Plaintiff,)

5. -vs-) No. 03-CV-12428 (WGY)

6. RAYOVAC CORPORATION,)

7. Defendant.)

8. I hereby certify that I have read the foregoing
 9. transcript of my deposition given at the time and place
 10. aforesaid, consisting of Pages 1 to 92, inclusive, and I
 11. do again subscribe and make oath that the same is a
 12. true, correct, and complete transcript of my deposition
 13. so given as aforesaid, and includes changes, if any, so
 14. made by me.

15.

16.

GEBHARD BRAUN

17.

18.

19.

20. SUBSCRIBED AND SWORN TO before me this

21. _____ day of _____, 2005.

22. _____

23.

24.

Page 93

1. CASE: BRAUN -vs- RAYOVAC
 2. DATE TAKEN: April 26, 2005
 3. DEPONENT: GEBHARD BRAUN

4. PAGE LINE ERRATA SHEET

5. _____ CHANGE: _____

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22. _____ REASON: _____

23. (SIGNED) _____

24. Reporter: Carol Connolly

24 (Pages 90 to 93)

Gebhard Braun April 26, 2005

Volume 1

Page 94

LEGALINK - CHICAGO
230 West Monroe Street - Suite 1500
Chicago, Illinois 60606
(312) 263-3524 (312) 236-8461

May 6, 2005

MR. WILLIAM L. PATTON

One International Place

Boston, Massachusetts 02110

CASE: BRAUN -vs- RAYOVAC

CASE NO.: 03-CV-12428 (WGY)

DEP OF: GEBHARD BRAUN DATE TAKEN: April 26, 2005

Dear Mr. Patton:

Per your instruction, enclosed is a copy of the deposition transcript, along with the original signature page and errata sheet.

Pursuant to the rules of court in this matter, the transcript is to be read and then signed before a notary public.

If any corrections/changes are to be made, please TYPE or PRINT them on the attached errata sheet, giving the page and line number, desired correction/change and reason.

Please arrange for accomplishment of same and transmittal of the signature page and errata sheet back to our office within 30 days from the date of this letter.

Upon failure to comply, we shall forward an appropriate affidavit of noncompliance to all counsel of record.

Sincerely yours,

LegalLink - Chicago

cc: Mr. James Shimota (org)

C.C. Job No. CC126179

Page 2005

CASE: BRAUN -vs- RAYOVAC

DATE TAKEN: April 26,

DEPONENT: GEBHARD BRAUN

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(SIGNED) _____ DATE _____

Reporter: Carol Connolly

25 (Pages 94 to 2005)

<p>A</p> <p>able 46:10 65:13 81:7 86:14,16</p> <p>absolute 63:8</p> <p>absolutely 37:15 42:20</p> <p>abstract 63:8</p> <p>acceptable 87:7</p> <p>access 37:13,17</p> <p>accessible 33:9,10,12</p> <p>accomplish 80:7</p> <p>accomplishment 94:15</p> <p>accounting 23:1 26:8</p> <p>accumulated 84:12</p> <p>accurate 51:4 58:23 72:2,10 90:13</p> <p>accurately 6:16</p> <p>achieved 24:12 74:1</p> <p>acknowledge 24:5</p> <p>acting 90:12</p> <p>active 61:9</p> <p>actual 28:6</p> <p>actuators 30:14,15,17</p> <p>add 68:11</p> <p>added 33:4 34:5 38:16</p> <p>adding 76:7</p> <p>addition 20:5</p> <p>adjourn 89:11</p> <p>advertisement 32:2</p> <p>advertisements 31:10 32:10</p> <p>affect 31:16 63:4,5 88:7</p> <p>affidavit 94:18</p> <p>aforementioned 90:4,6</p> <p>aforesaid 92:10,13</p> <p>afraid 31:16</p> <p>afternoon 37:8</p> <p>ago 45:13 85:19</p> <p>agree 51:13 52:10 53:1 53:13,14,23</p> <p>agreement 9:18</p> <p>aid 53:21 54:1</p> <p>aims 80:7</p> <p>air 18:10</p> <p>al 4:9</p> <p>algebra 11:18</p> <p>allow 76:13</p> <p>allowed 53:10,15</p> <p>alternatively 85:11</p> <p>alternatives 85:18</p> <p>altogether 11:16</p> <p>America 22:24</p> <p>answer 5:18 6:7,16 46:14,15</p> <p>answering 6:6</p>	<p>answers 5:4,23 90:11 90:15</p> <p>anticipated 68:15</p> <p>Antifogger 28:14</p> <p>anular 80:21,23,24</p> <p>anybody 55:13</p> <p>anymore 6:18</p> <p>apologize 58:8</p> <p>apparatus 67:18 68:14</p> <p>application 22:23 33:1 49:6,14,17 85:10</p> <p>applications 49:1,2</p> <p>applied 11:2 23:3 24:15 26:3,13 29:16 79:14</p> <p>appreciate 5:18 37:2</p> <p>apprentice 16:14 18:23 19:22</p> <p>apprentices 15:4</p> <p>apprenticeship 15:2,7 15:8 19:4,7 22:10,11 22:13 23:18</p> <p>approach 47:11</p> <p>approbation 76:16,20</p> <p>appropriate 94:18</p> <p>approximate 40:7 56:18</p> <p>approximately 25:20 32:7 38:18 39:17 41:18 42:2 45:4 56:18 57:12</p> <p>April 1:15 3:2 4:3 93:2 94:7 2005:2</p> <p>arrange 94:15</p> <p>arrangements 57:23</p> <p>art 49:9,13</p> <p>aside 13:14 22:11 34:16 42:22 44:15 48:15 55:12</p> <p>asked 36:14 40:21,21 41:2,4 48:1 56:21 87:15 90:14</p> <p>asking 5:22 7:6 8:15 67:13</p> <p>asserted 7:22</p> <p>assistance 47:16</p> <p>association 4:4</p> <p>astonished 46:21 64:15</p> <p>atmosphere 62:9 80:18 80:22</p> <p>attached 81:19,19 90:21 94:13</p> <p>attachment 81:24 82:6</p> <p>attempt 74:4</p> <p>attend 11:6 19:13,14</p>	<p>attended 10:24</p> <p>attention 70:11</p> <p>aufnahmeteil 51:10</p> <p>automated 16:5</p> <p>automatically 64:7</p> <p>automobile 28:10 29:1 29:6</p> <p>automobiles 26:17 29:8</p> <p>Autumn 25:12</p> <p>avoid 78:12 79:16,24</p> <p>avoiding 72:15</p> <p>aware 37:20 38:1 51:21 52:3,16 53:5</p> <p>A.D 1:15 91:5</p> <p>a.m 1:15 4:2 37:6</p> <p>B</p> <p>Bachelor's 24:7</p> <p>back 8:13 9:12 11:1,2 23:1 24:18 37:9,11 43:24 52:2 65:2,4,7 75:16,18 83:23 86:20 86:21 94:16</p> <p>background 5:16 10:23 20:3,20,20,24 21:4</p> <p>based 58:16</p> <p>basic 11:16 12:20,22 13:1</p> <p>basically 18:1 45:14 49:5</p> <p>basin 16:21</p> <p>basis 71:13</p> <p>Bates 50:14 58:7 65:6</p> <p>bath 16:23 17:16</p> <p>bathed 74:6</p> <p>bear 24:6</p> <p>bearing 50:14 58:7 65:6</p> <p>Beckert 14:21 18:24,24</p> <p>beginning 25:14 27:4 56:15 65:17 87:1</p> <p>begins 4:7 37:9 65:7 75:17</p> <p>behalf 2:6,11 4:17,19 36:6,8</p> <p>believe 6:10 51:4 56:23 58:23 59:5,10 63:17 77:3,20</p> <p>better 56:15 86:5</p> <p>beyond 12:1 81:3,9 83:2</p> <p>big 16:15 18:1 39:12,13</p> <p>Bill 4:18</p> <p>binder 34:7 49:6</p> <p>binders 34:10</p>	<p>bit 5:16 19:13 31:15 50:4 56:3 70:22 80:19 89:10</p> <p>blade 61:19 63:20,22 64:4</p> <p>block 61:21,22 62:18 62:19,22 63:2 69:13</p> <p>board 35:19,20 68:19</p> <p>body 29:9</p> <p>boiling 17:22,23</p> <p>book 33:13 34:4</p> <p>boss 27:7</p> <p>Boston 2:5 4:19 94:5</p> <p>bottom 59:4 80:3</p> <p>bought 55:18</p> <p>bracket 66:21,22,24 67:1,4 68:13</p> <p>Braun 1:3,10,13 2:13 3:1 4:8,12,19 5:5,13 6:20,22 7:7,13,15,16 9:2,10 10:12 29:17 29:18,21,22 30:1,3 30:10,18 32:6,12,14 32:20 33:7,12,20 34:18,22 35:10,17,23 36:23 37:12,17,19 39:10 40:10,14,18,18 44:17 47:23 50:7 55:18 57:2,21 58:19 61:10 67:4 70:9 74:8 82:22 89:1,1,12 92:3 92:16 93:1,3 94:6,7 2005:1,3</p> <p>Braun's 7:21 9:23 10:2 49:23 77:11</p> <p>break 6:11 22:4 25:8 37:2,3 58:4 63:12 64:21 75:12 89:8,18</p> <p>brief 37:2</p> <p>brought 7:16</p> <p>brush 47:5 61:20</p> <p>brushes 16:3 54:21</p> <p>builders 68:20</p> <p>built 68:21</p> <p>business 26:15</p> <p>buy 76:2</p> <p>B00 65:6</p> <p>B001058 50:14</p> <p>B001063 50:14</p> <p>B001064 58:7</p> <p>B003074 65:7</p> <p>B003075 65:6</p> <p>B003076 65:7</p> <p>C</p>	<p>C 90:1</p> <p>cabinet 32:18,19 41:24 42:2,6,6,15,16 43:12 44:3,4,16 52:2 87:17</p> <p>cabinets 20:9,15</p> <p>cafeteria 57:24</p> <p>Calculating 26:9,10</p> <p>call 12:5 24:1,15,19 25:19 43:20 69:24</p> <p>called 5:2,6 10:14,24 11:1 23:24 24:1 48:5 61:2</p> <p>cap 82:13,16,22,24</p> <p>care 88:4</p> <p>career 19:6 34:8</p> <p>Carol 1:10 4:5 90:4 91:8 93:24 2005:24</p> <p>cartridge 66:8,17 71:18</p> <p>case 64:16 81:21,23,23 91:2 93:1 94:6,6 2005:1</p> <p>casting 20:1,1,4 22:19</p> <p>cc 94:22</p> <p>CC126179 94:23</p> <p>center 50:21,22 51:1,11 52:9 53:20 68:23</p> <p>certain 24:3 34:12 67:7</p> <p>certainly 7:3,20 34:11 41:5 50:7,10</p> <p>certificate 24:5</p> <p>certified 4:4</p> <p>certify 92:8</p> <p>challenge 64:6</p> <p>change 68:5 75:11 87:5 93:5,7,9,11,13,15,17 93:19,21 2005:5,7,9 2005:11,13,15,17,19 2005:21</p> <p>changed 24:1 68:2,6</p> <p>changes 92:13</p> <p>characteristic 17:18</p> <p>charging 81:12 82:3</p> <p>chemical 12:17,19,21 13:3</p> <p>chemicals 13:5</p> <p>chemistry 11:21,24 12:1 13:1,7 88:3</p> <p>Chicago 2:9 91:10 94:1 94:2,20</p> <p>choice 85:11,12,15</p> <p>chronological 49:3</p> <p>chronologically 22:7</p> <p>circuit 20:20,20,24 21:4</p>
--	---	---	---	---

<p>City 20:16 Civil 1:11 90:19 civilized 69:3 clarify 67:2,3 72:14 clean 25:9 28:10 61:19 61:22 62:11 63:20 64:4 72:17,18,19 73:23 74:15,16 83:12 83:15,16,17,18 84:7 84:12,16,18 85:5 86:1,2 cleaned 16:23 31:24 32:1 64:18 80:17 82:2 86:20 cleaner 31:17,18 cleaning 15:12 16:9 25:5 26:4 27:19,24 37:21 38:2,7,11,19 38:23 39:10 40:19 43:7 44:7 45:1,9,22 45:23 46:2,12 47:1,8 47:10,14,17,19 50:21 50:22 51:1,11 52:9,9 52:12,17,24 53:2,7 53:11,12,16,17,20 54:6 59:11,17,18,22 60:19,22 61:5,7,12 62:3,9,21 63:1,3,7 64:5 66:8,12,13,17 68:2,4,12,23 69:2,4 69:14,15,18,20 70:4 71:19,21,22 72:9,16 72:18,19,20 73:13,21 74:4,5 75:3,8,9 76:4 76:8 77:4 79:4,7 82:3 82:23 83:10,12 86:3 87:10,12 88:1,7,7,9 88:10,11,16,20,24 89:4 cleansed 62:19 cleansing 16:6 clear 47:2 55:7 67:9 72:17 clock 29:12,13 clocks 26:18 close 17:3 56:20 closed 64:17 77:23 79:1 80:12 cloth 16:3 colleagues 60:5 college 11:24 12:2 14:5 combination 72:8 come 26:11 29:14 32:9 32:10 36:14,17 37:1 41:5 54:16 68:1</p>	<p>Coming 64:1 communicate 35:10 companies 30:21 44:20 company 4:9,9,12 6:22 7:5 8:6 14:17,19,22 19:10 20:6,7,14,19 23:2 24:4 29:16 31:19,21 35:12 39:4 39:8,12 41:13 43:2 45:11,12 47:13 48:12 55:17,19 56:10,16 60:10 89:2,6 Company's 18:24 compartment 72:19 competition 31:16 competitive 32:21 competitors 32:17 competitor's 32:13,15 complete 48:4 57:16 90:14 92:12 completed 18:4 completely 42:24 48:3 comply 94:18 component 83:6 components 15:19 44:19,20,21 51:1,14 82:14,15 87:5 composition 87:24 88:6 concentrate 13:10 concept 82:1 concludes 37:5 75:13 concrete 47:2 58:14 conference 9:11 configure 78:6 configured 78:7,11,12 78:20 80:1 confronted 28:20 confused 67:15 70:22 connected 31:5 connecting 52:24 53:2 53:6 connection 7:16,21 10:3 44:24 47:9 61:8 connections 89:3 Connolly 1:10 4:6 90:4 91:8 93:24 2005:24 consider 10:13 47:8 84:20 85:7 considered 74:3 considering 19:8 consisting 53:21,24 92:10 construction 23:4,11 23:12 25:19 26:22 contact 14:18 35:2</p>	<p>45:11,16,19 46:1 47:6 60:21 76:21,24 78:23 79:17 80:22 contacted 9:10 contacts 45:14 contain 38:6 contained 38:17 66:19 container 16:15 52:9 52:11,17,24 53:3,7 53:12,17 62:3 66:12 66:13 69:8,19,20,23 70:3,4,6,7,16,20 71:5 71:6,20,22,23 72:16 73:2,4,6 77:14,15,23 84:8,8 86:1 containers 16:22 contains 38:20 66:20 71:23 continually 22:2 continued 43:10 59:18 continues 65:3 contraption 81:7 contributed 65:20,21 control 45:14 convenient 37:1 conversation 8:6 convinced 66:3 Cook 91:4 cooking 17:21,23 copies 39:23,24 40:4,5 48:17,18 copy 90:20 94:9 corporation 1:6 4:17 7:23 10:10,18,20,21 92:6 correct 5:24 7:17,21,23 8:1 11:13 14:4 16:9 17:1 18:10 22:11 25:18,24 28:24 29:18 37:21 38:16 43:6 44:4,5 48:10 51:20 52:6,22 54:24 63:7 71:7 73:8,10 78:13 78:17 79:4 81:1 82:11 83:23 84:13 86:11,24 87:10 88:17 88:20 92:12 corrections/changes 94:13 correction/change 94:14 correctly 29:4 correspond 34:21 corresponded 45:1,5,8 correspondence 34:24</p>	<p>44:19 46:19,22 counsel 2:2 4:13 6:10 6:20 8:4 9:24 10:3 75:11 90:8 91:2 94:18 countries 24:23 County 90:1 91:4 couple 67:3 course 5:17 6:2,5,11 7:9 10:13 11:10,21 12:16,24 13:7,15 32:12,16 33:6 34:8 34:15,22,23 35:2 38:3,8 44:5,8 45:3 52:7 53:8 73:1,12 courses 12:2,10,15 court 1:1 4:5,10,20 92:1 94:11 Courts 1:12 90:20 cover 74:22 covered 11:17 50:9 54:9 79:8 covers 28:15 co-inventorship 7:24 cradle 51:2,7,8,11,15 51:19,22 52:4,10,12 52:18,23 53:10,11,15 53:16 66:14 70:1,1 70:17 72:22 75:1,5 Crates 16:22 create 73:13 created 43:6 CRR 1:10 90:5 91:8 CSR 1:10 90:5 91:8,8 cupboard 32:17 customer 76:1,22 cutter 61:21,22 62:18 62:18,21 63:2,20,21 63:22 64:4 cutting 63:7 74:16,22 78:22 82:14,15 C.C 94:23</p>	<p>decide 85:18,20 decided 85:17 declaration 7:13,15,18 7:20 8:4 50:15,20 defendant 1:7 2:11 4:17 92:7 defendant's 50:13 58:6 65:5 70:8 definition 30:9 degree 23:23 24:8,12 31:3 delivered 16:13 44:21 DEP 94:7 department 8:7,22 9:23 10:3 15:3 23:12 23:13,14 25:18,21 27:6,7 28:3 33:1,3 39:15 41:13 45:12,15 45:17,19,23 46:2,4,6 46:11,20,24 47:3,13 47:16 49:1,23,24 71:13 76:20,21 88:5 89:3,5,6 departments 45:12,15 deponent 90:20 93:3 2005:3 deposited 69:15,18 72:1 deposition 1:9 2:2 3:1,9 3:10,11,12 4:7,11 5:16 6:12 7:7,8,9 72:16 90:3,8,18 92:9 92:12 94:9 depositions 1:13 describe 10:22 48:22 describing 35:23 design 20:20,21,24 21:4,6 23:13,14 25:18,21 26:5,22,24 27:2 designed 27:6 designer 26:23 desired 94:14 destroyed 48:6,11,19 destroying 48:15 details 81:11 determine 6:7 develop 27:5,21 56:14 63:20 64:6 74:4 86:8 developed 27:13 30:20 43:8 47:20 54:10 55:15 60:9 61:15 63:19 79:2,2 86:9,10 86:11 developing 65:24</p>
--	--	--	---	--

development 30:5,19
39:15 43:10,20 65:20
69:6
developments 56:22
61:9
device 14:2 16:17 17:6
17:10 18:13,18 31:4
31:4 47:19 52:1
53:10,15 56:14 57:15
57:17 60:22 61:8
62:17 63:16,19 67:22
68:4,5,7,24 69:1,7
72:9 73:23 76:2,3,4,8
76:14,16,22 77:2,4,8
78:3,20 80:9 81:12
81:12,13,14 82:2,2,3
82:3,23 83:6 85:4,14
86:5,23 88:6
devices 13:11,12,13,15
13:21 14:5,12,18
15:5,6,17 17:24 28:9
32:16 81:16
diaries 34:14 38:5
diary 33:16,19,21 34:1
34:2,4,9,16 38:4,5,17
38:22 48:5,9,15
die 20:1,4 22:19
Dietrich 50:15
different 11:3 14:12
16:5,21 20:7 24:14
24:22 33:14 36:9
57:19 67:1 85:9
differentiate 72:13
difficult 25:1 28:2
59:12,13
diminish 17:13 77:13
diploma 24:19
direct 35:2 70:11
direction 55:15
directly 46:4 53:11,17
74:18
director 60:16,17
dirt 69:12,13,17 70:6
72:16 84:12
dirty 69:8,20 83:13,14
84:7,13,21,22 85:2
86:2,19
disassemble 64:14
Disassembled 15:21,22
disassembling 64:10
discussed 22:10 75:19
83:2
discussing 35:7 49:20
50:4,17
discussion 89:19

dismantled 15:20
distance 78:10,21
District 1:1,1,12 4:10
4:10 90:20 92:1,1
document 49:4 50:14
57:22 58:7 65:6
documents 7:10 9:8,13
9:13 10:2 35:10,11
39:2,9,17 40:2,4,6,11
40:19,23 44:2,3,15
44:16,19 46:8,9,16
47:23 48:1,13,16,21
48:22,24,24 49:19,22
50:3,4,6 57:9,11
doing 57:22 85:23
double 39:19
double-walled 70:5
dozens 39:19,19,20
Dr 2:14 8:1 12:7,13
13:12,16 15:21 16:11
16:22 17:6,12,22
18:1 19:11,17 20:1,9
20:12 21:5,12,16,20
22:16 23:5,8,13
24:21 25:13,15 26:9
26:18,23 28:5,13,15
29:10 30:6,14 32:18
33:2,17 34:7 35:14
35:19 36:13,16,22
39:5,22 41:22 42:7
42:12,15,18 43:2,6,9
43:15,17 44:13 45:18
47:18 48:3,7 49:5
50:18,20,20,24 51:5
51:6,8,14,21,24 52:3
52:8,11,16,22 53:1,5
53:9,13,14,19,23
54:3,15,23 55:1,5,6,7
55:12,15 56:1,3,12
56:21,24 58:22 59:5
60:1,6,8,12,12,17,19
60:21 61:4,6,11
62:13,24 63:3,16
64:2,11,13 65:10
66:7 67:19 68:9
69:15,23 72:3,11,24
73:5 75:20 76:11,24
77:11 78:3,5,16
79:10,14,21 80:11,21
81:4,10 83:4,17
84:22 87:15,22 88:13
88:24 89:4
drafting 20:4 86:23
draftings 87:2
draftsman 19:11,16,23

20:5,7
drained 18:6 53:11,16
84:2
draw 65:13 68:19
drawer 19:10 39:12,13
39:18 40:3,7,12,14
40:16,23
drawing 35:19,20
52:24 57:18 59:2
66:18 68:16,17,19,19
70:21 71:9,11 72:24
73:1 80:13 85:2
drawings 34:20 39:11
39:20 43:1,23 48:17
56:4,5 87:2
dried 17:17 18:5,7 76:6
drive 2:9 30:14,15,17
81:6,7
dry 30:20,22 31:8 51:2
51:15,23 52:5
dryer 53:21,24
drying 18:10 53:22
54:1
duct 17:12 18:8
duly 5:6 90:9
Duncan 2:17 4:3
D-61476 1:14

E
e 90:19
earlier 52:20,21 77:18
86:22 87:8
earliest 9:9
early 53:7 68:9
easier 76:2
easily 80:6,9
East 2:9
education 14:7,16,16
15:4 19:13,23 21:9
21:18 24:3,18 25:3
educational 10:23
24:22
effect 73:22 88:8,11
effective 47:21
efficacy 88:7
either 39:5 49:22
Electra 20:16 22:20
23:16 25:5
electric 13:20
electrical 13:11 14:5
20:9,24 21:4,5,7,8,17
21:24 31:4,4 77:8
electricity 31:5
Electromechanical
13:12,13

electronic 37:13
Ellis 2:8 4:16
embodiment 85:22
employed 27:4 29:15
30:1,10 36:23 37:12
employer 18:22
employment 22:7,12
27:20 33:20 34:22
enclosed 80:5,15 94:9
ended 27:17
engine 18:20
engineer 23:24 24:2,4
24:13,19
engineering 10:24 11:6
11:9,12,23 12:2,7,8
12:11,11,13,15,17,19
13:2,8,21 14:4,15
19:8,13 20:24 21:4,7
21:8,9,10,17,19,24
22:9,14 23:5,6,20,23
24:18 26:1
engineers 34:21 35:7
35:10
English 5:3,4 8:23
11:14
enter 22:21 69:13
73:24 85:5
entire 33:12
entries 38:17,20,23
environment 31:9
equivalent 25:2
era 24:16
errata 93:4 94:10,13
94:16 2005:4
especially 26:8 73:22
essential 21:13,13,15
21:16,18,22 34:19
essentially 27:4 32:24
41:19
estimate 40:8 89:15
et 4:9
event 89:8
exact 39:3
exactly 16:1 28:19 32:5
44:18 55:2 58:14
59:9 60:14 64:17
83:1
exam 19:21 22:13
EXAMINATION 3:4
5:9
examined 5:7 90:10
example 60:6 77:8
81:11
excess 53:10,16
excuse 12:18 27:14

28:17 29:3 30:2 35:8
38:4 47:21 49:11
executed 68:20
Exhibit 3:9,10,11,12
50:13,16 58:6,12
65:5,8 70:8,10
EXHIBITS 3:7
exist 35:12 38:21,24
existed 35:11 37:19
65:17
existing 39:15 68:7
experience 76:21 77:1
77:3
experimented 27:12
experiments 27:11
41:21
explain 25:3
extensively 11:17
extent 50:5,8
external 55:14,16,23
56:9 57:21 71:5
extra 11:7
e-mail 37:17,19

F
F 2:4
facilities 61:9,10
facility 15:11 25:6
58:19
fact 28:21 55:9 86:5
failure 94:18
fair 14:10 40:2 67:11
falls 73:24 77:9
familiar 24:7
fantastic 54:18,23
73:21
far 42:7 47:20 80:5
fast 63:10 73:23
fat 88:11
faucet 32:2
feared 30:23
February 59:7
fed 83:22,23
Federal 1:11
feel 31:1,17,18 47:11
feeled 17:21
feeling 89:14
felt 74:1
field 12:11
Figure 70:11,23 71:3
84:10 85:7 86:18
file 44:4 49:10
files 50:5
filled 22:21 73:10,11
74:21 75:1

<p>filter 66:17,19,20 71:18 83:6,7,8,14,22 84:4,9 84:21,24 86:2,20</p> <p>finally 6:14</p> <p>fine 9:21</p> <p>fingers 82:21</p> <p>finished 23:22 41:24</p> <p>finishing 19:18,18</p> <p>firm 6:24 7:4</p> <p>first 5:6 8:18 9:1 17:1 21:2 22:23 25:17 28:20 30:1,3,20 43:6 48:14,14 50:20 72:13 75:20 83:8 90:9</p> <p>fit 17:8</p> <p>five 45:6</p> <p>fixed 51:18 61:1 67:22 81:21</p> <p>flood 86:19</p> <p>flows 84:16</p> <p>fluid 12:23 17:20 45:10 52:9,12,17,24 53:2,7 53:11,12,16,17 54:20 54:21 61:24 62:3 63:1,3,7 64:5,18 66:8 66:12,13,17 69:7,9 69:11,13,14,16,18,20 69:20 70:4 71:1,19 71:22,23,24,24 72:16 72:18,20 73:2,3,7,8 73:11,14,19,20,23 74:5,9,11,13,18,21 75:1,4 77:12,13,20 77:21 78:13 79:17,23 80:1 83:9,9,13,14,15 83:16,17,18,20,22 84:1,2,4,6,7,7,12,13 84:16,18,21 85:2,24 86:1,2,2,18 87:10,12 87:18,22 88:1,7,10 88:16,20,24 89:4</p> <p>fluids 87:13,14</p> <p>flush 74:10,18</p> <p>focus 13:9,14</p> <p>focused 13:21 14:5,13</p> <p>focusing 14:11</p> <p>fogging 28:13,15,16,18 28:21,22 29:2,6</p> <p>foil 63:24 64:1 82:18 82:19</p> <p>foils 39:22,23 63:23</p> <p>following 2:2</p> <p>follows 5:8 82:18</p> <p>follow-up 10:16</p> <p>foregoing 90:3,13 92:8</p>	<p>forementioned 90:15</p> <p>form 9:19 34:2,24 46:13 62:5 72:4 74:19 76:18 77:6 78:18</p> <p>formally 10:15</p> <p>former 60:15</p> <p>forward 94:18</p> <p>found 73:22 74:20</p> <p>four 11:16 20:7 22:20 23:16 25:4</p> <p>Fröhlich 2:15</p> <p>France 42:19 55:20,21 55:24 56:5,19 57:6 57:19 58:19 59:18</p> <p>Frankfurt 26:13</p> <p>Frankfurter 1:14</p> <p>free 41:4 54:22 78:22 78:23</p> <p>French 56:5 57:10,12</p> <p>frequency 62:24 63:1,2</p> <p>front 80:8</p> <p>FRÖLICH 5:1</p> <p>full 85:5 89:17</p> <p>fully 15:23 86:9,10,12</p> <p>function 15:23 53:22 54:1,6 61:13,14 64:7 81:22 83:8,13</p> <p>functional 41:19 42:7,9 53:20 85:24 86:14,17</p> <p>functions 84:24</p> <p>further 43:10 56:14,21 63:19</p> <p>future 59:3</p>	<p>23:2,2 24:12</p> <p>giesser 19:24</p> <p>Gillette 4:8,12</p> <p>gist 64:8</p> <p>give 50:10 80:3</p> <p>given 92:9,13</p> <p>giving 94:13</p> <p>glass 28:12,15,18,24 29:5,12</p> <p>glimpses 66:4</p> <p>GmbH 1:3,13 2:13 92:3</p> <p>go 5:15 9:17 11:5 18:21 19:8,20 23:3 57:24 58:1 60:23 79:8,12 83:20,21</p> <p>going 4:1 14:14 22:19 37:6,8 64:23 65:2 75:14,16 89:20</p> <p>good 4:1 5:13,14 37:8 74:23</p> <p>grab 77:9</p> <p>grad 24:2,5,6</p> <p>grade 19:17,18,19,20</p> <p>graduated 24:2,13</p> <p>granted 49:6</p> <p>Gray 2:3,14 4:18 7:1,4 8:16,18 49:23</p> <p>greasy 61:23</p> <p>great 11:4</p> <p>greeted 8:11</p> <p>group 30:2 55:14,16,17 55:24</p> <p>Groz 14:21 18:24,24</p> <p>guess 8:17 10:15 50:2</p> <p>gymnasium 24:16</p>	<p>59:24 60:10 75:22</p> <p>heard 55:14 56:6 57:8 59:24</p> <p>hearing 60:3</p> <p>hearsay 60:2</p> <p>heater 53:21,24</p> <p>held 4:11 82:9</p> <p>help 8:19 46:10</p> <p>hereinabove 90:16</p> <p>Hexner 60:6,7,8,12,19 60:21 61:4,6,11</p> <p>high 11:5 24:15,16 74:21 78:1</p> <p>higher 19:12,13 36:21</p> <p>highest 31:3</p> <p>Hilfinger 46:3</p> <p>hire 8:20</p> <p>hired 8:21</p> <p>history 22:7,12</p> <p>hold 26:20 73:16 78:7 82:7</p> <p>holder 17:1,4,8</p> <p>holds 82:12</p> <p>holidays 41:4</p> <p>home 48:13</p> <p>horizontally 24:24</p> <p>hose 83:20 84:2,20,22 85:8,14,15,22,22 86:5,8,11</p> <p>house 89:1,1,4,5</p> <p>housing 20:10 29:10,11</p> <p>housings 20:12 79:19 79:19</p> <p>huge 18:17,18 39:16</p> <p>humidity 28:23</p> <p>hundreds 40:5</p>	<p>implemented 86:12</p> <p>important 12:14,15 14:9 21:9,11,12,21 21:22 29:12 77:24</p> <p>impressed 18:15,16 55:10 62:17 63:6,9</p> <p>impressive 18:19,20</p> <p>improve 22:18 52:2 87:4 88:10</p> <p>improved 87:5</p> <p>improvement 72:3,10 77:10</p> <p>improvements 68:23 75:19 81:3,5,10 83:3</p> <p>incident 76:9</p> <p>include 66:17,21 67:17 68:13 70:3</p> <p>included 11:24 53:20 53:24 68:3</p> <p>includes 92:13</p> <p>including 51:1,14 59:3</p> <p>inclusive 92:10</p> <p>incomplete 6:8</p> <p>incorporated 55:18 56:8 86:13</p> <p>incorrect 6:8</p> <p>independently 37:14</p> <p>indicated 6:10</p> <p>indicators 26:19</p> <p>individual 57:3 63:15</p> <p>individuals 46:23 47:15 56:24</p> <p>influence 28:22</p> <p>influenced 62:21</p> <p>inform 41:5 44:6,9</p> <p>information 32:14,21 32:23 36:14,16 44:7 44:9 45:16 46:23 47:3</p> <p>informed 40:22 41:1,14</p> <p>inlet 84:14</p> <p>insert 83:15</p> <p>insertion 68:13</p> <p>inside 29:13 56:16 67:21 83:14 84:12</p> <p>insofar 69:6</p> <p>installed 29:1,5</p> <p>instruction 94:9</p> <p>instrumentation 26:19</p> <p>instruments 26:17 29:9</p> <p>insulated 79:19</p> <p>intention 23:3 26:3</p> <p>interested 88:3 91:1</p> <p>interesting 15:13,13 58:13 63:18 64:6</p>
---	--	---	--	---

G

gain 13:2 20:19,23 21:3

gained 13:6

gap 80:21,21,23,24

gear 20:10,13

Gebhard 1:10 3:1 4:8
5:5 70:9 92:16 93:3
94:7 2005:3

general 33:5 35:15
46:7 77:7

generally 14:6 33:9,10
33:11 48:23

generate 35:6,9,21 36:7

generated 38:10

gentleman 41:14

gentlemen 8:23

geometry 11:19

German 5:3,4 11:18,19
25:19 51:10 54:13

Germany 1:15 4:12

H

Höser 41:11

hair 74:10,18

half 19:1,9 22:21

handled 76:14

handwritten 9:15

happen 61:24

happened 17:16

hazardous 77:7

head 46:3 47:19,20
51:2,15,17,18,23
52:5 61:1 63:7 64:9
64:10,14,20 74:10,16
74:18,22 75:7 77:24
78:8,10,22,22 80:4
80:11,12,14,14,17

heads 78:21

hear 13:18 56:9 59:21

I

id 86:7

idea 13:10 54:17 55:2,5
68:23 74:9 76:1 85:1
85:2 86:7 87:12

ideas 54:23

identified 67:5

identify 4:13

ignorance 19:3

Illinois 2:9 89:24 91:4
91:10 94:2

im 1:14

imagine 10:5 17:20
46:17 71:12 73:18

immerse 79:8

immersed 73:19,20
83:12

impeller 53:21,24

interior 74:9 Internal 30:9 International 2:4 94:4 internship 19:9,22 20:6 22:20 interpose 10:11 interpret 5:2 interpreter 1:9 2:16 4:21 5:2,14 7:2 8:19 10:18,21 11:11 12:18 21:1 29:3 35:8 37:22 46:14 49:11 51:7 65:21 70:13 71:21 73:15 77:16 83:11,24 interrogatories 5:7 90:10 invented 55:21 inventorship 7:22 involved 16:4 20:8 25:5 26:5 47:13 60:9 involves 37:20 38:2 issued 70:9 item 70:12,16 71:2,15 71:17 72:21,22 items 13:10 14:8 72:8,8	40:15,15,21 42:7 43:8,8 47:2 54:7,8 55:11,13,19 56:2 59:16 60:10,15 61:14 67:9 71:17 76:9,13 78:20 83:5 87:8,23 87:24 knowledge 6:18 12:20 12:22 13:1,3,7 37:18 77:7 known 40:13 66:19 knows 33:4 Kronberg 1:14 4:12	litigation 7:16 9:2 10:4 37:20,22 38:1,1 little 5:16 19:13 20:12 31:15 56:3 70:22 80:19 lived 20:18 LLC 4:9 LLP 2:3,8 located 39:13 40:20 42:15 55:19 62:3 66:14 location 32:14 locking 68:24 75:20,23 76:8 logical 52:14 longer 38:21,22,24 89:9 long-time 41:21 look 32:12 46:9 50:9 52:8 57:20 looked 9:8 looking 9:12 67:4,14 loose 34:5 48:5 lot 34:15,23 89:2 low 74:22 lower 66:11 lowered 16:23 17:16 lowest 36:10 lunch 57:23 58:5 63:12 64:21 lying 82:9	65:8 70:10 mass 12:6 Massachusetts 1:1 2:5 4:11 92:1 94:5 materials 49:16 mathematics 11:18,20 matter 4:8 94:11 mean 8:2,3 13:4 33:11 42:22 44:13 51:11,12 57:2 58:15 67:4 69:10 73:15,17 75:8 75:9 88:2,5 meanings 67:1 means 24:10 64:2 69:4 69:8,12 76:3 83:8 meant 7:18 74:17 mechanic 12:14 19:7 mechanical 12:11,13 14:16 20:22 26:8 mechanics 12:23 mechanism 75:21,24 76:8 medium 18:7 member 83:20 84:2,21 84:22 85:3,8,15,15 85:22,22 86:6,8,11 memoranda 35:6,9 36:4,8 memos 35:13 mention 72:21 mentioned 9:12 10:9 14:23 16:8 44:1 48:21 57:9 61:16 72:15 75:20 77:11,18 86:22 87:8 middle 78:21 millimeters 78:9 80:24 82:20 mind 12:5 30:21 mine 66:3,4 minimize 77:21 minimized 77:19 model 43:2 53:20 54:11 68:7 85:24 modifying 85:7 Monroe 91:9 94:1 months 20:7 22:20 23:16 25:4 morning 4:1 5:13,14 motor 81:8 mount 81:13,14,17,18 81:22,24 82:2,3,5,7 82:10 mounted 61:2 mounts 81:20	movable 62:18,20 moves 63:2 moving 64:4 N nails 82:20 name 4:3 8:10,11 14:19 16:10 17:7 18:22,24 20:14,16 28:2 36:6 40:13,14 41:10 45:10 57:8,8 named 90:8 names 8:22 46:6,7,10 57:5 National 31:22 nearly 40:2 necessity 82:1 need 6:11 10:17 50:12 64:13 75:8,11 82:13 82:24 needle 18:12 needles 14:17,20 15:10 15:11 16:4,20,24,24 17:3,14,15 18:4 19:1 neighboring 47:12 never 57:7 nevertheless 46:14 80:5 new 27:5,5,7,10,12 41:12,12 54:16 newly 27:6,6 42:20 ninth 19:18 noncompliance 94:18 noon 25:8 normal 11:18 notary 1:11 90:5,12 91:4,9 92:23 94:11 notebook 33:7 notes 9:15,22 10:8,12 33:11,14,15,22,23 34:9,13 38:6,10 48:19 noticed 7:8 notices 33:8 noticing 4:15 November 9:4,5 Nowadays 24:17 number 14:11 58:7 59:5 70:9,18,23 71:1 86:18,18,21 89:21 94:14 O O 90:1,1 oath 92:11
J James 2:8 3:5 94:22 Japanese 30:21 31:11 31:12,13,21,24 32:4 32:11 Jeanette 2:15 5:1 Jim 4:16 8:15 50:11 57:22 66:23 89:7 job 56:13 94:23 Jurgen 41:11	L L 2:3 94:4 label 65:6 labeled 40:14 52:23 laboratory 33:7,13 lady 30:20 language 51:9 large 12:8 14:11 15:3 35:4 36:11 39:16,18 40:3,7,11 44:3,3,16 largest 23:1 lawyers 6:22 learn 9:1 13:4,4 55:23 learned 19:5 56:18 learning 20:5 leave 48:15 52:1 leaving 40:17 44:1,17 led 77:2,3 left 19:4 27:17 32:6 34:1 38:13 39:4,8,12 40:10,17 41:3,4 47:23,24 48:2,9 legal 2:17 4:4 9:23 10:3 49:23 LegalLink 94:1,20 LegalLink-Chicago 4:5 Leon 55:21 LESLEY 2:4 lessening 77:11 letter 90:21 94:17 Let's 86:4 level 36:10,10 60:15 74:21 78:1 library 32:20 life 77:8 limit 78:10 limitation 78:10 line 93:4 94:14 2005:4 liquid 79:14,15 listed 59:4 literally 73:2,8	M machine 12:3,8 15:16 15:18 23:2 machinery 12:9 18:17 machines 15:9 18:18 19:2 26:9,10 machining 12:9 magic 54:20 55:1 61:17 61:18 62:1,2,8,12 mail 37:13 main 22:22 23:19 maintain 15:5,6 33:7 maintained 32:22 making 22:19 83:13 man 18:14 manager 60:17 manufactured 18:12 20:15 42:19 manufacturing 12:6 23:7,8,10 27:23 mark 50:13 58:6 65:5 70:8 marked 50:16 58:12		
K K 90:1 keep 33:19 34:17 keeping 72:15 kept 33:21 34:1,2,4,9 34:14 38:6 56:3 Kevin 2:17 4:3 kilometers 20:17 kin 91:2 kind 28:23 Kirkland 2:8 4:16 knew 44:11 48:18 54:20 76:22 88:16 know 7:5,5,18 8:10,10 8:11,21 16:1 17:7 18:15 20:22 24:9,9 25:7 31:10,10 32:23 32:24 35:11 37:18				